MYSORE GOVERNMENT, GENERAL AND REVENUE SECRETARIAT
JUDICIAL DEPARTMENT

Subject: Leg. C. File No. 7 of 09-10
The Mysore Village Offices Regulation

TABLE OF CONTENTS

Serial No.	Communication No.	Date	From or to whom	Subject in abstract
			Legislature	File 7-1907
Pages	1 to 6		Office Note	
	Letter	13/7/07	Mr. T. Ananda Rao, to the Diwan	Requesting sanction for introducing a bill on the subject. (Page 1)
II	Mr. Ananda Rao's speech prepared for the occasion (pages 2-21)			
III	Abstract Proc. of the Legislative Council granting permission to introduce the bill before a meeting of the Council (vide pages 27 to 29).			
IV	Notification No. 29/L	26/7/07	To the Compiler.	Ordering the publication of the bill with the statement of object & reasons (page
V	Copy of the above as published in the Gazette (with a spare copy)			(36 & 43)
VI	Letter No. 43-37/L	31/7/07	To the Members of the Council	Forwarding copies of the above with the papers printed in connection therewith (page 44)
VII	Enclosure to the above (45-75)			
VIII	Notice of	17/8/07	From Mr. Ananda Rao.	Gives notice of his intention to move for the reading of the bill (Page 76)
IX	Abstract Proc. of the Council of 28/8/07 referring the bill to a Select Committee (vide pages 79 and 80)			
X	Revised copy of the bill			incorporating the changes as recommended by the Select Committee (83-91)

Subject Leg Cl File No. 7 of 07

TABLE OF CONTENTS.

Serial No.	Communication No.	Date	From or to whom	Subject in abstract
XI	Min. Jus. No. 153 Leg. 2/07	4/11/07	Mr Compton	Directs the publication of the Report of the Select Committee with the Bill as amended by them (9)
XII	Report of the S. C. & Bill as published in the Gazette (pages 55-120)			
XIII	Letter No. 215-225	6/11/07	To the Members of the Council	Forwards copies of the above. (121).
XIV and XV	Abstract		Proofs of the Legislative Council containing the discussions of the Council on the Select Committee's report & on the Bill generally	
XVI	Copy of the Bill incorporating the amendments as adopted by the Council.			
XVII	Bill as sent to the Residency. (250 - 257).			
XVIII	Abstract Proofs of the Legislative Council finally passing the Bill. (265 - 71)			
XIX	Copy of the Bill as assented to by H. H. the Maharaja with the signature of the Dewan affixed thereto. (vide p. 279)			
XX	Abstract Proofs of the Council reporting the assent of H. H. to the Bill.			
XXII	The Bill passed & promulgated as Regulation, IV of 1908 - (Pages 287 - 94)			

G. R. S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

As personally directed, a draft is sent for approval forwarding a copy of the Village Offices Bill & the Statement of Objects and Reasons thereto, with connected printed papers to the Members of the Legislative Council, as required under Rule 31. ~~[illegible]~~ The other bills are not yet ready to be sent, the revised Statement of Objects and Reasons being wanting for the Police Bill and the Court Fees Amendment bill not having been printed at all. Perhaps the Press may be asked to print the Statements of Objects & Reasons of the Police Bill in the ~~[illegible]~~ first instance and to forward a dozen copies thereof, so that it may be bound with the Bill, which was printed as Govt. Legislation and copies sent to Members earlier — when orders will be taken as to the printed papers that ought to accompany the Police Bill for order.

N. B. —Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—7,000—12-3-07.

G. R. S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Issue
27.7.07

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—7,000—10-3-07.

G. R. S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

The proofs relating to the Village Offices Bill, the Police Bill and the Court Fees Regulation Amendment Bill which were received from the Press yesterday & today have been corrected & sent for journal.

30/7/07 30/7/07

Issue

30.7

Regis 30/7

30/7

The bills are kept in the file no 3 of 5 of 07

The bills were read and referred to a select committee at the meeting of the council held on the 28th August 1907. Draft of a G.O. forwarding copies of the draft Report of the Committee with a copy of the bill as amended by them to the members thereof for favour of remarks, if any, is submitted for approval.

21/10/07

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

Do have been issued

22/10/07

The following reply has now

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

been received from Mr Slaughter Swanicoupe.

Sent for information. ~~Perhaps the rough draft~~ of discussions that took place from day to day ~~may be fair typed and kept in the file~~ will be prepared and submitted.

25/10/07

18 Cr 25.10.07

N. B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

4710
24/10/07

GPB—30,000—11-4-06.

Immediate

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Village Offices Bill

Draft a notification publishing the Report of the Select Committee on the Bill to consolidate and amend the law relating to Village Offices in Ceylon with an amended copy of the Bill, for general information, is submitted for approval:

NR 4/4/07

Issue

4.11.07 MWS

Draft

Final proofs of the Report of the Select Committee on the Village Offices Bill and the Amended Bill have been received. The proofs have been gone through carefully in the Branch. But the Principal Councillor wants to see the proofs before the Reports are published in the Gazette.

NR 13/11/07

Submitted for perusal (Rev) 13-11-07 MWS

13/11/07

Just leave thanks

[illegible]

N. B.—Should routine notes be written on small Slips, the notes must be copied, or slips pasted on this form.

MGCPB—50,000—22-9-04

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Spare copies of the Report of the Select Committee on the Village Offices Bill we have just been received. Shall we with a draft forwarding copies to the members of Council —

26/11/07 26/11/07

Issue at once, please.

26.11.07

Issued 26/11/07

N. B.—Should routine notes be written on small Slips, the notes must be copied, or slips pasted on this form.

MGCPB—50,000—22-9-04

(1)

Camp Mysore.
13th July 1907

To

Dewan of Mysore.

~~III~~

Sir,

I beg to request your sanction in writing under section 12 of Regulation I of 1907 for introducing ~~a bill~~ two bills noted below at a meeting of the Mysore Legislative Council.

I have the honor to be,

Sir,

Your most obedient servant,

P. Chandra Rao
First Councillor

Permission granted
Please retain
Dewan
Upis.
Dec
15/7

I. A bill to amend the Court Fees Regulation No. III of 1900 with respect to the fee leviable in suits by lessors or land-lords to recover possession of lands, houses or gardens leased or tenanted.

II. A bill to Consolidate and amend the law relating to Village Offices in Mysore.

K.N.K.

File
Recd
16.7.07
Zey

II

Regulation to Consolidate and amend the law relating to Village offices in Mysore.

Sir,

The desirability of an enactment to regulate decisions of questions relating to Village offices has been engaging the attention of the authorities since the days of the Commission.

2. In his letter No. 1162 dated 30th Aug

2

30th August 1877 re-
porting on a case
in which the Commis-
sioner of the Nandi-
drug Division had
asked for the Chief
Commr's sanction
for revising the
Shankhagi Circles
formed by the
Survey Depot, the
Survey & Settlement
Commr incidentally
remarked that
"in Bombay so much
trouble was caused
by appeals and
com-

complaints from the decisions of the local officers and the intrigue in connection with these had become such a scandal that Bombay Hereditary Offices Act III of 1874 ~~called the Watandars Act~~ was passed for the purpose of regulating the course of procedure in these cases and placing them beyond the sphere of petty intrigue."

3. Thereupon

the Chief Commr Mr. Saunders considered that the Bombay Act commonly known as the Watandars' Act, might, with advantage, be introduced into Mysore with suitable modifications. He called for the opinions of the Divisional Commissioners and Deputy Commissioners on the subject.

4. Of the 3 Commrs, the Commr of Nagar Division, Major Wilks, did not see the need for the introduction of Bombay

considered that the Hukumnamas of Sir Mark Cubbon then extant were sufficient for all purposes and

Bombay Act on the ground that the very term watan was foreign to Mysore, that the Act encouraged the division of hereditary offices and that it recognized the rights of females to succeed to village offices contrary to the Chief Commissioner's disallowance of such "woman's rights" in the matter. He was also unwilling to make additions to the Statute Book in view of the Rendition of the State then imminent. The Commr of Nandidrug

Col. [illegible]

Col

Mr. J. L. Pearse was of opinion that the Act should be thoroughly revised so as to suit local conditions and suggested the appointment of a Committee in which a senior officer of the Survey & Settlement Department may be associated to deal with the subject.

The officiating Commissioner of Astapam Major R. C. Cole sent some notes on the Act

Show

showing how far its provisions were already in force in Mysore. Of the Dy Commrs consulted, the Dy Commr of Mysore did not reply, the Deputy Commr of Hassan had no opinion to offer; the Dy Commrs of Bangalore & Kadur (Capt Cumming & Major Blair respectively) were for the introduction of the Act; the Dy Commrs of Kolar, Tumkur, Shimoga & Chitaldrug (Mr Krishna Iyengar, Capt Ludlow, Col Mottett & Major Armstrong respectively) stated that the provisions of the Bombay Act had to be examined and amended to suit local conditions. Though the Dy Commr of Hassan

did

did not offer any remarks of his own, he forwarded the opinions of his Asst Commrs of whom Mr. V. N. Narasimmiah Garu, whom we have the pleasure of seeing among us at this table, wrote that the Act appeared to be far too elaborate and intricate for the requirements of Mysore though the main principles thereof were sound & could be adopted in the shape of Rules. In Feb 1878, the entire correspondence was forwarded to the Survey & Settlement Commr (the Hon'ble Col W. C. Anderson) for opinion.

5. In

5. No further action appears to have been taken until ~~Sept.~~ Nov. 1888 when, on an inquiry from the Dewan's office, the Supt of Revenue Survey (Col Grant) reported that the Hon'ble Col Anderson did not seem to have taken up the question for final report but his numerous annotations on the papers sent to him showed that the matter engaged his close attention

attention. Col Grant suggested that the Act should be gone over by a competent Committee and the provisions introduced with such alterations as the local conditions demanded. He thought that the introduction of the Act would follow naturally on the introduction of Land Revenue Code.

6. The subject engaged the attention of the late Dewan Sir K Sheshadri who,

who on the 4th July 1894, minuted that this is a most complicated Act which it is not desirable to introduce into this Province. No further action is therefore required. The whole may be filed.

7. In the meantime, a vast body of scattered and disjointed rules and orders with regard to village officers came into existence. Some of these are collected and printed as Chapter ~~Section~~ III in the Revenue Manual of 1901. Some of them such

such as the Rules for the remuneration of Patels & Shanbhogs & minor village servants have the force of law; others are orders passed by Govt in appeals from the decisions of Revenue officers in regular suits; and a large number are ~~merely~~ administrative orders passed on the miscellaneous side & as such liable to be disregarded by subordinate officers in regular suits. The course of decisions, too, especially

especially in the matter of succession to village offices, has not been by any means ~~[illegible]~~ uniform or certain; with the result which conflicting decisions induce — of encouraging litigation. Lastly, as the success of the Revenue administration depends to a great extent upon the efficiency of the village service, ~~and~~ the introduction of a law to regulate the latter and place it upon a proper basis, only follows naturally

All this has accentuated the necessity for legislation.

naturally on the introduction of the Land Revenue Code which has governed the former for the last ~~fifteen~~ twenty years.

8. The subject was taken up in Dec 1899 by the then Revenue Commissioner of Eastern Division (the present Dewan Mr V. P. Madhavarao) who asked for a reconsideration of the whole question and the framing of a bill on the lines of the Bombay

Bombay Act with the necessary modifications in consultation with Colgrant.

9. The Bombay and Madras Acts relating to Hereditary offices were examined, with the result that the Bombay Act was found to be unsuited for reasons of which the principals were

(1) the Bombay Act - as is the case with ~~all~~ old enactments - entered into minute details which would now be more conveniently dealt with in

in rules framed under
~~the~~ an Act;

(ii) the Bombay Act did not recognize the practise of bringing a suit for possession of a Hereditary office. Such a practice has Existed in Mysore.

(iii) The Bombay Act Contemplated a regular settlement in the case of Each Patel and Shanbhog. There is reason to believe that such a Settlement was attempted in the days of the Commission in some Districts of Mysore

Mysore but with no satisfactory result.

(iv). Some of the provisions in the Bombay Act were opposed to prevailing rule or practice in Mysore. For example, Dy Commrs in Mysore have long exercised the power in certain contingencies of dismissing village officers without the previous sanction of Govt. It would be otherwise under the Bombay Act.

10. The provisions of

R

the Madras Hereditary village offices Act III of 1895 were found to be more in conformity with local practice and adaptable to local requirements.

11. A bill was accordingly drafted in the Legislative Deptt. The object in view, while so drafting, was not to introduce any radical change in the present system but to adhere, as far as possible, to

the

the traditions of Mysore village service with just such modifications as would be necessary to improve the efficiency of that service. The main principles of the bill are

(i) that it prescribes qualifications, fixes the powers of appointment, removal & punishment of village officers in Sirkar villages, & also in alienated tracts;

(ii) that it simplifies the procedure regarding suits

(iii) that

(iii) that it abolishes the vexatious & inconvenient practice of having two or more holders of the same office doing duty jointly or by turns;

(iv) that it does away with the practice of registering females in certain circumstances as the holders of village offices - a practice which has been another prolific cause of inconvenience & inefficiency in the service.

12. The

12. The draft bill was circulated for opinion to the Commissioners of Survey, Revenue and Land, & Deputy Commissioners of Distts. All the Officers Consulted are unanimous in recommending legislation. Their Criticisms & suggestions are valuable and entitled to careful Consideration, and ~~they~~ are reserved for such Consideration at the hands of this Council to whom the Bill

Bill will be submitted as originally drafted.

Fair Draft.

Irish Counsellor

JEG
27/7/57

I st meeting

III

SUPPLEMENT TO

The Mysore Gazette

PUBLISHED BY AUTHORITY.

BANGALORE, THURSDAY, JULY 25, 1907.

Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Council Chamber, Public Offices, at 3 P.M. on Wednesday, the 24th July 1907 :—

PRESENT.

V. P. MADHAVA RAO, ESQ., C.I.E., Dewan (Presiding).

Ex-officio Members.

T. ANANDA RAO, ESQ., B.A., (First Councillor).
K. P. PUTTANA CHETTY, ESQ., (Second Councillor).

Additional Members.

Official.

A. RANGASWAMI IYENGAR, ESQ., B.A., B.L.
H. J. BHABHA, ESQ., M.A.
RAO BAHADUR M. MUTHANNA, ESQ.
M. KANTHARAJ URS, ESQ., B.A.
S. NARAYANA RAO, ESQ.

Non-official.

RAJAMANTRA PRAVINA C. SREENIVASIENGAR, ESQ.
V. N. NARASIMMIYENGAR, ESQ.
M. C. RANGIENGAR, ESQ., B.A.
B. NAGAPPA, ESQ., (Bar.-at-law).
SYED AMIR HASSAN, ESQ.

K. MYLAR RAO, ESQ., B.A., B.L. (Secretary).

PRESIDENT :—

GENTLEMEN,

Before proceeding to the regular business of this afternoon, allow me on behalf of His Highness the Maharaja to welcome you to this the first meeting of the newly-constituted Legislative Council of Mysore. We are to-day on the threshold of an important constitutional experiment, the second of its kind that has been undertaken in the State since the Rendition. The inauguration of the Representative Assembly more than a quarter of a century ago has been fully justified by the useful work it has done in its own sphere, whereby it has secured a definite place for itself in the scheme of Government. We are now, for the second time, broadening the base of the Administration by inviting the co-operation of a number of official and non-official gentlemen in the discharge of one of the most important functions of Government, that of legislation.

2. As you are aware, the objects intended to be secured by the Legislative Council are, chiefly, as follows :—

(i) To enable the people to place their wants and wishes before the Government through members qualified to represent them.

(ii) To give to legislative measures the benefit of personal discussion by a larger number of competent persons (official and non-official) than is possible under the ordinary Executive Council of three members, and from more varied stand-points.

(iii) To obtain the assistance of gentlemen (whether officials, members of the bar or others) qualified by practical experience and knowledge of the people to give advice in the making of laws and regulations.

(iv) To facilitate and ensure the consideration of the details of every measure by requiring its reference to and examination by a select committee.

(v) More than all, to provide that degree of publicity which is necessary to ensure the free and independent discussion of legislative measures from all points of view.

3. I am aware of the tendency in some quarters to question the practical value of this measure, on the ground that in constituting the Council the Government have proceeded with unnecessary caution; that certain important privileges conferred on the British Indian Councils, such as the power of interpellation and the discussion of the budget, have been withheld from the Mysore Council; and that the selection of non-official members has been kept entirely in the hands of Government.

4. These criticisms seem to me to ignore the conditions in Mysore, which make powers of interpellation to a great extent unnecessary, and the system of selection of members by His Highness the best under existing circumstances.

5. Before I take up these points, I may note another criticism that has been levelled against the Mysore Legislative Council. It was said that the Council as originally constituted did not include representatives of certain communities and interests. In the view taken by Government, the most efficient constitution of the Council is not so much one based altogether or chiefly on the representation of the different communities and interests in the State (a course which is found to be attended with practical difficulties), as one that ensures that the members selected are persons who are qualified, on the one hand, by their ability and attainments to assist the Government in the enactment of laws, and on the other, to understand and give proper form and expression to the views and sentiments of the people. There is already provision for particular communities or interests affected by proposed legislation being represented on select committees.

6. It is also a matter of common knowledge that, in the existing conditions of society, Government service and a few of the learned professions—notably the bar—attract the bulk of the intelligence and ability of the country, and until these conditions change largely, representation of the people to be effective has to depend mostly on these classes.

[*President.*]

7. Now, as regards the powers of interpellation and discussion of budgets, these no doubt have been given to the Legislative Councils in British India, but they were given at a late stage of the existence of those Councils, and you can well understand how a Native State like Mysore has to move even more cautiously than the British Indian Government in these matters. But, as I have remarked above, there is not the same necessity for granting them to the Legislative Council in Mysore as there is in British India. Mysore already possesses a Representative Assembly, in which it is open to the elected representatives of the people to make any representation they may consider necessary on administrative measures and on matters affecting the well-being of the people, and elicit information from Government; and how freely the Assembly has availed itself of this privilege from the very commencement, is a matter of common knowledge not only in Mysore but all over India. In fact, this privilege has been appreciated so much that, at the last session of the Assembly, when the question of instituting a Legislative Council was under consideration, the representatives were anxious to be assured that the constitution of a Legislative Council did not imply the withdrawal of the valued privilege.

8. As regards selection of members, I am far from denying the desirability of having the non-official members elected by a properly defined electorate, and I have no doubt that in a not distant future His Highness will be able to see his way to extend this further privilege to the people. A reference to the explanatory order which was published with the Regulation will show that the throwing open of a certain proportion of the seats on the Council to election by recognized public bodies like the Representative Assembly, is only a question of time, and has merely been postponed till sufficient experience should have been gained as to the most suitable mode of giving effect to the principle. The power to make rules in this behalf has been expressly reserved, as you will see, by section 5 of the Regulation. But I do not know if, under existing circumstances, the system of nomination by His Highness the Maharaja is not better adapted for securing efficient representation of the people than election either by the Representative Assembly or Local Boards.

9. It has again been objected that the non-official members now nominated are most of them retired officials. Far from looking upon this as a disqualification, I consider that the Council deserves to be congratulated on the fact that it has been able to secure as its members gentlemen who, having retired from the service of the State and earned a well-deserved rest, have so readily consented to place the benefit of their experience and instructed intelligence at the disposal of the Council. No one can question their representative character. They are of the people; they live in the country and own lands and other properties therein, and have as large a stake as any person can have in the stability and good government of the State and the happiness of its subjects. If they help to make good laws, they share the blessings of such laws in common with their fellow-subjects, and if the laws they help to enact are bad and trench on the liberty of the subject and are oppressive to him, they have to share these disadvantages equally with other subjects of the State. They have every claim to represent the people, and are such as would, under a system of election, secure the suffrages of any intelligent electorate.

10. One of the points of administrative reform in British India on which stress is laid by leaders of Indian opinion, has reference to the fact that high officials who have acquired valuable experience and skill in administration at the expense of the raiyat, carry away from the country all this experience and skill when they retire from the service. We are more fortunate here in Mysore in that our retired officers do not leave the country, and their knowledge and experience are not lost to the service of the people.

Influence among the people, ability to voice their wants and wishes and independence of thought and expression, are qualities necessary in every representative of the people, and it will readily be granted that retired officials possess these qualities in an equal measure with other non-official representatives, if not in a greater degree.

[*President; Mr. V. N. Narasimmiyengar.*]

11. I may also say that as far as the conditions in Mysore are concerned, I fail to see any meaning in the antithesis set up between official and non-official views of a question, or the views entertained by Government and those entertained by the people. The Government here is all centred in the Maharaja, and you know that I am indulging in no expressions of exaggeration when I say that as far as our Maharaja is concerned he has in Governmental matters no interests apart from those of his subjects. To Him we may without suspicion of flattery apply the beautiful sentiment of the poet Kalidasa, which was quoted the other day in the Imperial Legislative Council :—

प्रजानामेव भूत्यर्थं स ताभ्यो बलिमग्रहीत् ।
सहस्रगुणमुत्स्रष्टुमादत्ते हि रसं रविः ॥

" For the welfare of the subjects themselves he used to take taxes from them, just as the sun takes water from the earth, to return the same a thousandfold in the shape of rain."

12. In creating a Legislative Council and by summoning to it representatives of non-official public opinion, His Highness has given one more proof of his solicitude for the welfare of his subjects. It behoves us accordingly, by the proper discharge of the trust assigned to us, to justify the departure which His Highness has thus made in the constitution of the Government, and I have every confidence and hope that with your aid, gentlemen, the Council will fulfil the expectations which His Highness has formed in creating it.

MR. V. N. NARASIMMIYENGAR :—

SIR,

On behalf of the non-official members, I beg leave to offer to His Highness the Maharaja's Government our hearty acknowledgments for the establishment of the Mysore Legislative Council, the opening of which marks this as a red-letter day in the political history of Mysore.

We look upon this institution as the recognition and fruition of the grand central principle that the interests of the Sovereign and his subjects are identical, and that it is indispensable in the cause of good and progressive government that the ruler should be constantly in sympathetic touch with the people and should take into his mature consideration their ideals, sentiments, and aspirations in every measure of legislation undertaken for their benefit.

The elective principle is still in its infancy in India, and much more so in Mysore, although in Mysore it has the advantage of prospering under an indigenous rule. The appointment of non-official members by nomination, rather than election, was therefore at first indispensable. But it is felt by the public at large that in order to attain a full measure of efficiency, the Council should be more extensively representative, and should be able to express the sentiments of the people.

We are conscious that the results of the present experimental and limited measure will be watched outside our own territories with interest, and that much discretion and self-restraint are required on our part to make it efficient, and to prevent it from becoming abortive; and it is our fixed intention so to discharge our duties in this connection as to ensure its success without, however, sacrificing any interests that may be involved in the business brought before us

In conclusion, Sir, we beg leave to be permitted to hope that after this Council has been in practical working for some time, and when the results so far achieved will justify it, His Highness the Maharaja's progressive Government will be pleased in the fulness of time to enlarge the constitution and powers of the Legislative Council, so that it may become truly representative, and may be allowed to take a share with the Government in the administration of the country.

Bill to consolidate and amend the Law relating to Village Offices in Mysore.

MR. T. ANANDA RAO :—

SIR,

The desirability of an enactment to regulate decisions of questions relating to Village Offices has been engaging the attention of the Authorities since the days of the Commission.

2. In his letter No. 1162, dated 30th August 1877, reporting on a case in which the Commissioner of the Nundydroog Division had asked for the Chief Commissioner's sanction for revising the Shanbhogi circles formed by the Survey Department, the Survey and Settlement Commissioner incidently remarked that "in Bombay so much trouble was caused by appeals and complaints from the decisions of the local officers, and the intrigue in connection with these had become such a scandal, that Bombay Hereditary Offices Act III of 1874 was passed for the purpose of regulating the course of procedure in these cases and placing them beyond the sphere of petty intrigue."

3. Thereupon, the Chief Commissioner, Mr. Saunders, considered that the Bombay Act, commonly known as the Watandar's Act, might, with advantage, be introduced into Mysore with suitable modifications. He called for the opinions of the Divisional Commissioners and Deputy Commissioners on the subject.

4. Of the three Commissioners, the Commissioner of Nagar, Major W. Hill, considered that the Hukumnamas of Sir Mark Cubbon, then extant, were sufficient for all purposes, and did not see the need for the Bombay Act, on the ground that the very term Watan was foreign to Mysore, that the Act encouraged the division of hereditary offices and that it recognized the rights of females to succeed to village offices contrary to the Chief Commissioner's disallowance of such "woman's rights" in the matter. He was also unwilling to make additions to the Statute Book in view of the Rendition of the State then imminent. The Commissioner of Nundydroog, Col. J. L. Pearse, was of opinion that the Act should be thoroughly revised so as to suit local conditions, and suggested the appointment of a Committee in which a senior officer of the Survey and Settlement Department may be associated to deal with the subject. The Officiating Commissioner of Ashtagram, Major R. C. Cole, sent some notes on the Act showing how far its provisions were already in force in Mysore. Of the Deputy Commissioners consulted, the Deputy Commissioner of Mysore did not reply; the Deputy Commissioner of Hassan had no opinion to offer; the Deputy Commissioners of Bangalore and Kadur (Captain Cumming and Major Blair respectively) were for the introduction of the Act; the Deputy Commissioners of Kolar, Tumkur, Shimoga and Chitaldrug (Mr. Krishna Iyengar, Captain Ludlow, Col. Mottett and Major Armstrong respectively) stated that the provisions of the Bombay Act had to be examined and amended to suit local conditions. Though the Deputy Commissioner of Hassan did not offer any remarks of his own, he forwarded the opinions of his Assistant Commissioner, of whom Mr. V. N. Narasimmiengar, whom we have the pleasure of seeing among us at this table, wrote that the Act appeared to be far too elaborate and intricate for the requirements of Mysore, though the main principles thereof were sound, and could be adopted in the shape of Rules. In February 1878, the entire correspondence was forwarded to the Survey and Settlement Commissioner (the Hon'ble Col. W. C. Anderson) for opinion.

5. No further action appears to have been taken until November 1888, when, on an inquiry from the Dewan's Office, the Superintendent of Revenue Survey (Col. Grant) reported that the Hon'ble Col. Anderson did not seem to have taken up the question for final report, but his numerous annotations on the papers sent to him showed that the matter engaged his close attention. Col. Grant suggested that the Act should be gone over by a competent Committee, and the provisions introduced with such alterations as the local conditions demanded. He thought that the introduction of the Act would follow naturally on the introduction of the Land Revenue Code.

[*Mr. T. Ananda Rao.*]

5. The subject engaged the attention of the late Dewan, Sir K. Sheshadri Iyer, who, on the 4th July 1894, minuted that "this is a complicated Act which it is not desirable to introduce into this Province. No further action is therefore required. The whole may be filed."

7. In the meantime, a vast body of scattered and disjointed rules and orders with regard to village officers came into existence. Some of these are collected and printed as Chapter III in the Revenue Manual of 1901. Some of them, such as the rules for the remuneration of Patels and Shanbhogs and minor village servants have the force of law; others are orders passed by Government in appeals from the decisions of Revenue Officers in regular suits; and a large number are administrative orders passed on the miscellaneous side and, as such, liable to be disregarded by subordinate officers in regular suits. The course of decisions, too, especially in the matter of succession to village offices, has not been by any means uniform or certain, with the result—which conflicting decisions induce—of encouraging litigation. All this has accentuated the necessity for legislation. Lastly, as the success of the Revenue Administration depends to a great extent upon the efficiency of the village service, the introduction of a law to regulate the latter and place it upon a proper basis, only follows naturally on the introduction of the Land Revenue Code which has governed the former for the last nineteen years.

8. The subject was taken up in December 1899 by the then Revenue Councillor of Eastern Division (the present Dewan), Mr. V. P. Madhava Rao, who asked for a reconsideration of the whole question, and the framing of a bill on the lines of the Bombay Act with the necessary modifications in consultation with Col. Grant.

9. The Bombay and Madras Acts relating to hereditary offices were examined, with the result that the Bombay Act was found to be unsuited for reasons of which the principal were :—

(i) The Bombay Act—as is the case with old enactments—entered into minute details which would now be more conveniently dealt with in rules framed under an Act;

(ii) The Bombay Act did not recognize the practice of bringing a suit for possession of a hereditary office. Such a practice has existed in Mysore.

(iii) The Bombay Act contemplated a regular settlement in the case of each Patel and Shanbhog. There is reason to believe that such a settlement was attempted in the days of the Commission in some districts of Mysore, but with no satisfactory result.

(iv) Some of the provisions in the Bombay Act were opposed to prevailing rule or practice in Mysore. For example, Deputy Commissioners in Mysore have long exercised the power, in certain contingencies, of dismissing village officers without the previous sanction of Government. It would be otherwise under the Bombay Act.

10. The provisions of the Madras Hereditary Village Offices Act III of 1895, were found to be more in conformity with local practice and adaptable to local requirements.

11. A bill was accordingly drafted in the Legislative Department. The object in view, while so drafting, was not to introduce any radical change in the present system but to adhere, as far as possible, to the traditions of Mysore Village Service with just such modifications as would be necessary to improve the efficiency of that service. The main principles of the bill are—

(i) that it prescribes qualifications, fixes the powers of appointment, removal and punishment of Village Officers in Sirkar villages, and also in alienated tracts;

(ii) that it simplifies the procedure regarding suits;

(iii) that it abolishes the vexatious and inconvenient practice of having two or more holders of the same office doing duty jointly or by turns;

[*Mr. T. Ananda Rao; Mr. Kantharaj Urs; Mr. K. P. Puttanna Chetty.*]

(iv) that it does away with the practice of registering females in certain circumstances as the holders of Village offices, a practice which has been another prolific cause of inconvenience and inefficiency in the service.

12. The draft bill was circulated for opinion to the Commissioners of Survey, Revenue and Excise and Deputy Commissioners of Districts. All the officers consulted are unanimous in recommending legislation. Their criticisms and suggestions are valuable and entitled to careful consideration, and are reserved for such consideration at the hands of this Council to whom the bill will be submitted as originally drafted. I now move for leave to introduce the bill.

MR. M. KANTHARAJ URS seconded the motion. The motion was put to the Council and carried.

The Mysore Police Bill.

MR. K. P. PUTTANNA CHETTY:—

MR. PRESIDENT,

The bill which I have now the honor to introduce to the Council relates to the Police Administration of the Province, and aims at consolidating and amending the law regarding the constitution and organization of the regular and village Police. The subject of Police Administration has been a matter for careful consideration both in Mysore and British India during some time past. Its efficiency or otherwise deeply affects the welfare of the people, and the Government in Mysore have from time to time introduced such changes in the system as tended to make the Police more efficient and better adapted to the wants of the people. The efforts of successive Administrators have resulted in giving the Province a system of Police Administration somewhat different from that prevailing in the Regulation Provinces of British India, and with certain distinguishing features which have evolved from the traditions of the past and the growing necessities of a progressive Administration. I may say at once that this bill does not introduce any drastic changes in the organization of the Police as existing at present, but attempts to define more clearly and precisely what the present law leaves in some obscurity.

History of the Police of Mysore.

The history of the Police of Mysore is interesting and, in view of the fact that some of its prominent features are due to historical circumstances, it is not superfluous to trace it in brief outline. The present Police had its germ in the Kandachar system, which replaced in 1834 the earlier Police formed of village servants and the irregular infantry. The Kandachar system consisted of a large irregular, ill-paid force, with ill-defined duties. The members of the force had the charge of the collection of revenue, and were also employed in Police and other work. The Amildar was the head of the Taluk Police. The close connection which the Kandachar system entailed between the Police and the Revenue authorities led to attempts being made to separate the two by the formation of a separate civil corps. These attempts failed, but in 1866 the Government of India Act of 1861 was introduced into the Town and District of Bangalore. Mr. L. Bowring, the Chief Commissioner, agreeing with the Superintendents, strenuously resisted the extension of the Act of 1861 to the Province as a whole; and he was specially averse to adopting the Madras system, under which the Police were entirely dissociated from all connection with, and control by, the Revenue authorities, as wholly unsuited to the conditions of Mysore. The Government of India, in ordering the organization of the Police in the Province in 1871, observed that the Madras system was radically defective in that it overlooked in a great measure the existence of the village Police, and that a comprehensive Police system should have village institutions as its basis, with the view of securing economy and efficiency. In pursuance of these orders, rules were framed in 1872 for the organization and regulation of the village and regular Police and for the guidance of the Magistracy in connection with the Police. Here ended the old Kandachar system, and it was superseded by the village and the regular Police, which has come down to the present time, with modifications and developments rendered necessary by the

[*Mr. K. P. Puttanna Chetty.*]

changing circumstances of the Administration. Under the new rules, Deputy Superintendents continued to be the heads of the Police in each District, and the Taluk Magistrates the heads of the village Police of their Taluks, while Inspectors were made the heads of the Taluk regular Police. The independence of the Taluk Inspector was soon done away with, and in 1878 he was placed in direct subordination to the Amildar—a practice which continues to the present day. Thus ever since 1834 and even earlier, the District Superintendents and their successors the Deputy Commissioners have been the heads of the District Police, and the Amildars, with the brief exception of the period from 1872 to 1878, the heads of the Taluk Police. The subsequent history of the Police Administration relates to the augmentation of the force from time to time, the creation of new posts to meet altered circumstances, the revival of the Police Assistant Commissioners who were latterly designated Superintendents and Assistant Superintendents, the appointment of an Inspector-General of Police in 1885, and framing of rules and orders regarding internal management of the force.

History of the bill.

Though the system of Police Administration thus underwent some changes, the law relating to it did not keep pace with them. At present there are two different enactments in force—Act V of 1861 in force in Bangalore City and the regular and the village Police rules of 1872 in the rest of Mysore. The desirability of having a uniform system was recognised in 1886. A draft regulation was then prepared repealing Act V of 1861 and extending the rules of 1872 to the whole Province. This and the later attempt to frame a Regulation extending Act V of 1861 to the whole Province and retaining as much of the rules of 1872 as seemed necessary, did not meet with approval. In 1897 a fresh draft Regulation was prepared on the basis of the Bombay District Police Act (4 of 1890) with such modifications as the circumstances of Mysore rendered necessary. This draft was further revised to bring it into greater conformity with the present system of Police Administration and was then circulated to selected officers for remarks. On the receipt of their opinions, some of the recommendations made were adopted. Government, however, in view of the importance of this measure, appointed in 1904 a select committee composed of Mr. A. Rangasamiengar as President, Mr. Carr, Mr. M. Narain Rao and myself as members for the careful revision of the draft. This committee discussed not merely the details of the draft but also certain matters of principle brought before it for consideration by Mr. Carr. The committee made its recommendations, which have been adopted in this bill, which has thus had the advantage of careful consideration by the Government and revision at the hands of a committee, whose members had special and intimate acquaintance with both the Police and the general Administration of the Province.

Constitution and Organization of the Police.

The most important point as regards the Police force is its constitution and organization. The bill, therefore, deals with this subject first. The entire Police establishment is constituted as one force under the immediate direction and supervision of the Inspector-General of Police, who is, thus, the head of the Police Department, and the adviser of Government in all matters connected with the Police. He exercises general control over the Police and over crime—especially organised crime—and he is authorised to make rules and orders relating generally to the internal management and discipline of the force. He is assisted in the Districts, by District Superintendents and Assistant Superintendents who are purely Police officers, and in the Taluks by the Inspectors of Police. But, in conformity with the traditions of Police Administration in Mysore, the bill makes the Deputy Commissioner the head of the District Police, and continues the Police powers of the Amildar, who is to have general control over the Inspector of Police, the head of the Taluk Police.

[*Mr. K. P. Puttanna Chetty.*]

The Police powers of the Deputy Commissioner and the Amildar.

The continuance of the Deputy Commissioner as head of the District Police and the controlling powers of the Amildar over the Taluk Police have recently been subjected to hostile criticism. In some of the Provinces of British India the Police are independent of all control by Revenue officers, and it is the introduction of this system that was asked for by Mr. Ricketts in 1891 and recently by Mr. Carr. The proposal of Mr. Ricketts involved, as Mr. Carr's proposals do, the relieving of Deputy Commissioners and Amildars of all control over the Police or some proper limitation of such control. The Government, however, after careful consideration were of opinion that the Deputy Commissioners should, in the interests of an efficient Police Administration, continue to be the heads of Police in their Districts, and that it was not expedient to relieve the Amildars of their Police functions, as the advantages accruing from the measure were doubtful, while the disadvantages resulting therefrom were manifold. This was in 1892. During the meetings of the select committee in 1904, Mr. Carr revived these proposals, and the committee, after a full discussion, have recommended the continuance of the controlling powers of the Deputy Commissioners and Amildars over the District and Taluk Police respectively. Government have decided to accept these recommendations. The necessity for a change in a system which has given satisfaction during the last seventy years, has yet to be proved, and it cannot be based merely on a need for uniformity with the systems prevailing in some of the more advanced Provinces of British India. If experience is to be any guide, the present system in Mysore has much in its favor. Every successive Administration that had to deal with this question during the last half a century, has declared, in no uncertain terms, in favor of the system as prevailing in Mysore. The question is not purely one of departmental organization, but must be viewed also from the higher stand-point of the welfare of the people. As regards the Deputy Commissioner, he is the chief officer responsible for the administration of his district. As such, he must have intimate knowledge of the work of the Police, which can only be obtained by his being at its head. Again, it cannot be gainsaid that the work of the Police will improve in quality if it had the Deputy Commissioner's guidance and supervision, valuable on account of his knowledge of the district; while, at the same time, his authority will be a constant check on the excesses to which the Police may be hurried in their departmental zeal. The state of things under which the Deputy Commissioner is head of the Police instead of the District Superintendent, is at variance with the provisions of Act V of 1861 and the Madras Police system. But even there, it was clearly intended that the District Police Administration should vest jointly in the District Officer and the District Superintendent, the former being the guiding and supervising authority, and the latter his executive officer. Even the Police Codes of the various Indian Provinces recognise the need for supervision by the executive officer who is primarily responsible for the due administration of Criminal Justice. But such useful supervision is made difficult in British India by making the District Superintendent the head of the Police. Being subject to the executive officer only in his capacity as District Magistrate, the Superintendent resents all interference in the internal management of the force, and the natural result is conflict between the two. If the District Superintendent were subordinate to the Deputy Commissioner in law as in practice, we would have not merely the advantage of the Deputy Commissioner's help and guidance but also the absence of conflict between the two which is so injurious to efficient administration. Surely, therefore, it is no anomaly to declare the chief executive authority as head of the Police also, and the District Superintendent, as his Assistant in Police matters. Of course, petty and constant interference in the details of Police work is also injurious; but, I think, it may be safely left to the good sense and discretion of the Deputy Commissioner when to interfere and when not. At the same time, Government think that some liberty of action should be given to District Superintendents, and, accepting the recommendations of the committee, have provided in the bill, that the Deputy Commissioner should confine himself to matters connected with the efficient discharge of their duties by the Police of his district. The District Superintendent is invested with

[*Mr. K. P. Puttanna Chetty.*]

immediate control, without prejudice to the powers and responsibilities of the Deputy Commissioner, over ordinary matters connected with arms, accoutrements, drill, observation of gangs and suspects, collection of intelligence, distribution of duties and beats, education of men and officers and all other matters of ordinary routine nature. He can also correspond direct with the Inspector-General of Police in purely routine matters.

The exercise of Police powers by the Amildar is, I admit, subject to more theoretical objections than the case of Deputy Commissioners. But, I must once more repeat, the question must be looked at also from the side of practical utility. Any successful Police system in India, as the Government of India recognised long ago, must have the village Police as its backbone. The Amildar's active co-operation is essential for its amelioration and effective working; and it cannot be secured by divesting him of executive control over the Police. Moreover, the Amildar, being the local representative of Government, enjoys the confidence of the people in much larger degree than any purely departmental officer. His knowledge of what takes place in the corners of his taluk will act as a powerful check upon the abuses of the Police. The advice and co-operation of the Amildar, with his resources as the Revenue officer of the taluk, will go a great way in preventing that failure of justice which is too often due to the inefficiency and corruption of the subordinate Police. The only valid objection appears to be the combination of Magisterial and Police powers in an officer of the Amildar's status. In practice, however, no inconvenience is found to arise. He cannot try cases in which he has taken part as a Police officer. Again, all important Police cases being 1st class or Sessions cases, he cannot try them also. The principle of separation of executive and judicial functions, if pushed to its logical conclusion, would require, not that the Amildar should be divested of Police functions, but that he should be divested of Magisterial functions.

I have dealt with this question at length both because of its intrinsic importance as one of the characteristic features of our system, and because it may be thought that the recommendations of the recent Police Commission lend weight to the suggestions of Mr. Carr. Whatever may be the case in British India, it seems possible, in a Native State, to attain that co-ordination of functions in the same officer, which neither impairs efficiency nor divides responsibility.

Internal Regulation and Discipline.

I now pass on to the internal discipline of the force. This must, to a large extent, be entrusted to the Inspector-General of Police. He is empowered to make rules, subject to the orders of Government, on all matters referring to the discipline of the force. The Inspector-General can punish departmentally any Police officer below the grade of Assistant Superintendent, while the Deputy Commissioners and District Superintendents can punish officers below the grade of Inspectors. Except in the case of constables, where the Inspector-General of Police is the final authority, appeals lie to Government in all other cases of departmental punishment.

Police Regulations.

I will next draw your attention to the Chapter on Police Regulations, where you will find a number of provisions relating to the welfare and convenience of the public. Most of them confer necessary powers on the District Magistrate, while some enable the Police to act in emergent cases. The District Magistrate is empowered to make rules or orders on such matters as closing streets, preventing building materials to be left on the road, preventing people suffering from infectious diseases being carried through the streets, and matters of that kind, where regulations are necessary for the safety of the people. Certain powers are likewise given to Magistrates to preserve good order and decency. Thus, in Section 37, provision is made for dealing with brothels; Section 39 enables a Magistrate to make rules or orders to prevent riots and affrays between different classes of the community. Power is also given to Magistrates to prevent the uttering of obscene cries, or cries which tend to inflame religious

[*Mr. K. P. Puttanna Chetty; Mr. A. Rangaswami Iyengar; Mr. T. Ananda Rao.*]

animosity. Section 43 empowers a Magistrate to take all fitting steps against gangs of persons whose presence creates alarm in the neighbourhood. Similarly the Police are given certain powers against disorder in public places of amusement and in public meetings, and to regulate assemblies and processions in the streets.

Executive powers of the Police.

Chapter V contains exhaustive and, to a certain extent, novel provisions regarding the executive powers of the Police. Sections 47 and 49 define specifically the proper duties of the Police; while Section 48 emphasises the humane aspect of their duties; namely, to be of help to the helpless or disabled persons in the streets and to behave with gentleness and humanity. This is not a mere pious wish; for unnecessary harshness on their part in dealing with persons whom they arrest or search, is made punishable.

Of the remaining provisions, very few require any particular reference. The bill provides for the employment of additional Police whenever occasion demands it. If, in times of danger or serious breach of the peace, the Regular Police may be found to be insufficient, power is reserved to employ additional Police, the cost to be recovered from the inhabitants or any section or class of them, of the local area the disturbed condition of which necessitated such addition. The sympathy of the law-abiding section of any disturbed place is intended to be secured by enrolling them as Special Police Officers to put down lawlessness. Section 55 and its sub-sections provide punishments for various Police offences, Section 56 provides a proper remedy against cruelty to animals. Sections 61 to 68 incorporate the provisions of the Gambling Act (III of 1867) the extension of which to the whole of Mysore has been repeatedly urged from various quarters.

I have endeavoured briefly to explain the main features of the bill, and hope that it will receive full and exhaustive consideration in this Council. I now move for leave to introduce the bill.

MR. A. RANGASWAMI IYENGAR, seconded the motion. The motion was put to the Council and carried.

Bill to amend the Court-Fees Regulation III of 1900.

MR. T. ANANDA RAO:—

SIR,

I solicit leave of this Council to introduce a bill for amending the Court Fees Regulation III of 1900, in one respect. It is a short measure which will not engage the Council long. It is calculated to afford relief in respect of Court-fees to landholders and agriculturists who have the misfortune to be involved in litigation and to have recourse to Civil Courts.

2. Under Section 4, clause V, of the Regulation as it stands, the Court-fees payable in suits for possession of land, houses and gardens are regulated by the value of the *subject-matter* of the suit. The words 'subject matter' have been differently interpreted, and the prevailing interpretation has been that the words denote the property concerned in the suit, *viz.*, the land, house or garden itself, irrespective of the nature of the right involved. Thus, no distinction is made between cases in which the title to the property is itself in dispute and those cases in which without the proprietory right being disputed, the right to eject a tenant or other person in subordinate possession is alone disputed. If a house or garden worth fifty thousand rupees is the property concerned, Rs. 1,175 is the amount of Court-fee payable on the plaint, whether the suit is one in which the plaintiff's title itself is in dispute or is only an ejectment suit for non-payment of rent or other default in respect of the conditions of a tenancy. This operates as a hardship in the case of landlords and tenants in ejectment suits. The hardship has been complained of and brought to the notice of Government by members

[*Mr. T. Ananda Rao; Mr. S. Narayana Rao; The President.*]

in the Representative Assembly. By way of remedy, it is proposed to amend the Regulation so as to make a distinction between the two classes of cases and to allow of a smaller amount being payable as Court-fee on plaints in the latter class, *viz.*, purely ejectment suits.

3. I may add that, under Section 12 of the Mysore Legislative Council Regulation, the permission of the Dewan has been obtained in writing for the motion, which I now make.

MR. S. NARAYANA RAO :—I second this motion and I do so with great pleasure for the reason that in the course of my practice as a legal practitioner, I came across several cases of hardship in suits between landlords and tenants, which hardship the present bill is intended to remedy.

The motion was put to the Council and carried.

THE PRESIDENT :—

The leave to introduce the bills having been obtained, the next thing to be done is to publish these bills in the *Gazette*, and it is only after this is done that another meeting can be held. At the next meeting the principles will be explained, and the bills will be proceeded with, and after discussion, referred to a select committee, if necessary. These bills, as you are aware, are old ones, having been in the hands of Government for some time. We have, in anticipation of their being brought before this regularly constituted Council, taken steps to have them printed, and they will be ready much sooner than would otherwise be the case. I expect all the three bills will be published in the *Gazette* within fifteen days from now, and I suppose it would suit the convenience of the Council to meet again some time in the middle of August, and if that is inconvenient, in the last week of August.

After consulting the members, the Dewan announced that the next meeting would be held on Wednesday, the 28th August.

The meeting was then dissolved.

V. P. MADHAVA RAO,
President.

G.R.S. 26]

Please by post 3 copies 26/7/07

Diary No. of letter replied to

IV

File No.

Serial No

No. 29/LC

General and Rev. Secretariat

(LC)

, the 190 .

To Notification

Date of issue 26.7.07

Signed by Mr K. Mylar Rao

Under Rule 31 of the Rules framed under Regulation I of 1897, the following bills together with the statement of objects and reasons are published for general information:—

1). The Village officers Bill.

[Here enter the bill attached with the statement of objects & reasons appended thereto].

2). The Mysore Police Bill.

[Here print the Bill amended, with the revised statement of objects and reasons separately printed].

3). The Court Fees Regulation Amendment Bill.

[Here enter the Bill with the statement of objects & reasons].

By order

Secretary.

To the Compiler, Mysore Gazette, for publication as in part III of the Mysore Gazette in English and Canarese, and supply 50 spare copies of each to the Legislative Section very early.

SUBJECT.

Copies are kept in the P. file vol 3 25/7/07

Supplied 26/7/07

V

The Mysore Gazette.

Vol. 42.] PUBLISHED BY AUTHORITY. [No. 31.

BANGALORE, THURSDAY, AUGUST 1, 1907.

PART III.

Legislative Measures and Rules thereunder.

NOTIFICATION.

No. 29—L. C., dated the 26th July 1907.

Under Rule 31 of the Rules framed under Regulation I of 1907, the following bills together with the statement of objects and reasons are published for general information :—

THE VILLAGE OFFICES BILL.

A bill to consolidate and amend the Law relating to Village Offices in Mysore.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore; His Highness the Maharaja is pleased to enact as follows :—

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Village Offices Regulation, 190....

(2) It extends to the whole of Mysore, and

(3) It shall come into force with effect from the expiry of one month from the date of its first publication in the official Gazette.

Definitions.

2. In this Regulation, unless there is something repugnant in the subject or context,—

"Village." "Village" means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office." "Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order or with the settlement of boundaries, or other matters of civil administration pertaining to a village, whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known :

Provisos.

Provided as follows :—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may in like manner amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village officer.

"Village Officer."

"Emoluments" means and includes

"Emoluments."

(i) lands;
(ii) assignments of revenue payable in respect of lands;
(iii) fees in money or agricultural produce;
(iv) money-salaries and all other kinds of remuneration, granted or continued in respect of, or annexed to, any village office by the State.

"District Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district.

"District Deputy Commissioner."

"Deputy Commissioner" includes an Assistant Commissioner in charge of a division who, for the time being, is authorized to exercise the powers of a Deputy Commissioner.

"Deputy Commissioner."

Emoluments of village offices inalienable, and not liable to attachment.

3. The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Villages may be grouped, amalgamated or divided.

4. (1) The Government may, with reference to rules made in this behalf under section 21, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages and, thereupon, all village offices in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist, and new offices shall be created for the new village or villages.

(2) In choosing persons to fill such new offices, the Deputy Commissioner shall select the persons whom he may consider the best qualified from among the families of the last holders of the offices which have ceased to exist.

Reduction of village offices.

(3) The Government may also direct that the number of village offices attached to a village shall be reduced, and, thereupon, the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices.

Power to punish village officers.

5. (1) The Deputy Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause.

(2) An Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine any holder of a village office in an unalienated village for any of the causes specified in sub-section (1) and in such amount as the Government may, by general or special order, prescribe.

(3) The proprietor of an alienated village may, of his own motion or on complaint and after enquiry, suspend, dismiss or remove any holder of a village office in his village, except the patel, shanbhog, and the village watchman, for any of the causes specified in sub-section (1).

(4) The officer or person taking proceedings against a village officer under any of the preceding sub-sections of this section shall make a record of his reasons for so doing in writing and furnish a copy of the same to such village officer.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

6. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner shall fill up the vacancy in accordance with the provisions of the following sub-sections:—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(a) is not of the male sex;
(b) has not attained the age of majority;

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section 21;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner, disqualifies him for holding the office;

(*f*) by reason of his bad character or antecedents is, in the opinion of the Deputy Commissioner, disqualified for holding the office.

Rule of devolution of succession.

(2) The succession shall be regulated by the ordinary provisions of the Hindu Law: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, lie with the eldest member of the eldest branch of such persons.

In certain cases person other than direct heir may be appointed.

(3) When the next heir is not qualified under sub-section (1), the Deputy Commissioner shall appoint the person next in order of succession (according to seniority of age in the senior branch) who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Temporary disqualification of heir in certain cases.

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Deputy Commissioner may direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of the dismissed or suspended officer; provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3).

Procedure to be adopted when heir is a minor.

(5) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as heir, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner shall fill up the vacancy as provided in sub-sections (2) and (3).

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office and the Deputy Commissioner does not give the direction referred to in sub-section (4), he shall fill up the vacancy in accordance with the provisions of this section as if it had been caused by the death of the said holder; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended, is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold the office.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

(7) When a vacancy occurs in the office of patel, shanbhog, nirganti, toti, or talari of an alienated village, the proprietor of such village shall fill up the vacancy in accordance with the provisions of the following sub-sections:—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex;

(*b*) has not attained the age of majority;

(*c*) is not physically and mentally capable of discharging the duties of the office.

(2) The succession shall be regulated by the ordinary provisions of the Hindu Law: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, lie with the eldest member of the eldest branch of such persons.

Rule of devolution of succession.

(3) Where the next heir is not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession according to seniority of age in the senior branch who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

In certain cases person other than direct heir may be appointed.

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the proprietor shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office, until the person registered as heir is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if, on attaining majority, he proves to be disqualified under clause (c) of sub-section (1), the proprietor shall fill up the vacancy as provided in sub-sections (2) and (3).

Procedure to be adopted where heir is a minor.

8. The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari, shall devolve in accordance with the law or custom applicable thereto at the date on which this Regulation comes into force; or, in the absence of any such law or custom, in accordance with the provisions of sub-section (2) of section 6 and sub-section (2) of section 7 so far as applicable.

Succession in the case of offices other than patel, shanbhog, etc.

9. (1) Any person may sue before the Deputy Commissioner for any village office or for recovery of the emoluments of any such office, on the ground that he is entitled under sub-section (2) or (3) of section 6, or sub-section (2) or (3) of section 7, or section 8 of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner to be registered as heir of the last holder of any such office.

Suits for offices, for recovery of emoluments and for registry as heir.

Provided as follows:—

(i) No suit shall be entertained for a mere declaratory decree.

No suit for declaratory decree.

(ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Deputy Commissioner shall decide the claim on the assumption that only the said assignment constitutes the emoluments; but such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

Procedure in case of dispute as to nature of emoluments.

(2) If, at any time before the completion of the trial of a suit preferred under this section for any office or for the recovery of the emoluments of any office, it appears to the Deputy Commissioner that the claimant is not eligible for appointment under sub-section (1) of section 6 or sub-section (1) of section 7 of this Regulation, as the case may be, he shall pass an order rejecting the plaint.

Rejection of plaint when claimant is ineligible for appointment.

10. (1) No suit preferred before a Deputy Commissioner under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising, whether such date be before or after the commencement of this Regulation.

Limitation of time within which suits may be brought.

Provided that, in the case of a person who, by reason of minority, was disqualified for holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Limitation in case of minority.

(2) No application for the execution of a decree or order passed under this Regulation shall be entertained, if made after the expiration of one year from the date of such decree or order.

Limitation of time within which execution of decree or order may be applied for.

(3) Decrees or orders passed previous to the commencement of this Regulation in regard to claims to village offices or the emoluments annexed thereto, may be executed under the provisions of this Regulation; provided that no application for the execution of any such decree or order shall be entertained if made either after the expiration of three years from the date of such decree or order or after the expiration of one year from the commencement of this Regulation.

Execution of decrees and orders passed previous to commencement of this Regulation.

(4) In cases in which the decree or order sought to be executed was appealed against, the periods of limitation prescribed in sub-sections (2) and (3) shall commence from the termination of the appeal.

Limitation, when appeal preferred.

11. The District Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner in charge of a division in the district, or transfer any suit from the file of one such Assistant Commissioner to that of another or to the file of an Assistant Commissioner not in charge of a division, for disposal.

Power of District Deputy Commissioner in regard to transfers of suits.

12. (1) The trial of suits under this Regulation shall be regulated by rules made by Government under section 21 and by the following provisions:—

Procedure to be observed in trying suits.

(i) A date shall be fixed for the hearing of the suit and the same shall be notified to the parties, who shall be entitled to be heard in person or by agent;

Date of hearing to be fixed and parties to be heard.

(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness or that any person shall be summoned to produce a document, and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so;

Witnesses may be produced or summoned.

(iii) The officer trying the suit shall record in his own hand a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.

Record of proceedings.

(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.

Obligation to obey summons.

13. Decrees and orders passed in suits under this Regulation may provide for payment of costs according to such scale and subject to such rules as may be prescribed by Government under section 21, and shall be executed in accordance with rules to be made under the said section.

Decrees may provide for costs and shall be executed according to rules made by Government.

14. (1) If, before or during the hearing of a suit under this Regulation or of appeal against a decree or order passed in a suit under this Regulation, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement for the decision of the Chief Controlling Revenue authority and shall stay further proceedings until the said decision is communicated to him.

In certain cases Deputy Commissioner may refer question of law to the Chief Controlling Revenue authority.

(2) If the officer making the reference to the Chief Controlling Revenue authority is not the District Deputy Commissioner, the reference shall be made through the District Deputy Commissioner.

Such, then, is the occasion for the accompanying Draft Regulation, which, it may be observed, follows to a large extent (but with important variations) the lines of the Madras Hereditary Village Offices Act, III of 1895, the provisions of the latter being found, on careful examination, to be much better adapted to local requirements than are those of the Bombay Hereditary Offices Act, III of 1874.

It now remains to describe briefly the main provisions of the proposed Regulation.

Section 2 deals with definitions.

Under the definition of "village" here given, it will be possible to declare two or more villages ordinarily so called to be a single village for the purposes of the Regulation.

The characteristics of a "Village Office" as here defined are—

(i) the assignment of "emoluments" (a term defined comprehensively in the same section); and (ii) the annexing to the office of duties connected with some branch of the Civil administration pertaining to a village, whether these duties are actually demanded or not.

The provisos give power to Government, on the one hand, to exclude any office from the operation of the Regulation, and, on the other, to decide whether a particular office falls under the definition or not.

The destinction drawn between "Deputy Commissioner" (a term applicable in certain cases to a Divisional Assistant Commissioner) and "District Deputy Commissioner" (denoting the Chief Revenue Officer of the District) is a convenient one, and has been taken from the Madras General Clauses Act, 1891.

Section 3 embodies the existing law with respect to the inalienability of emoluments and their non-liability to attachment and sale by Courts.

Section 4 empowers Government to group, amalgamate or divide villages, and to reduce the number of offices, in a village, as may be necessary.

Section 5 deals with the powers of Deputy Commissioners, Amildars and Inamdars to punish village officers for reasons to be recorded in writing. In consonance with the existing practice, the powers of the Deputy Commissioner to punish officers in alienated villages have been assimilated to those with respect to officers in Government villages. In Madras, the latter powers are subject to restriction.

Sections 6 and 7 declare the rules to be observed in making appointments to the five main village offices of patel, shanbhog, nirganti, toti and talari. It is merely necessary to note that these rules will, among other things, do away with the right of females in certain circumstances, to be registered as the holders of village offices, but not of course, so as to interfere with claims to succession being traced *through* females, and that the rule of devolution of succession to a single heir as laid down will exclude the performance of duties by rotation; the latter being a system attended with many difficulties, not satisfactory on the one hand to the parties concerned, and not conductive, on the other, to the efficiency of business, besides leading to faction, litigation and intrigue and to a relaxation of the sense of responsibility. It may also be remarked that, under Section 7, the confirmation of the Deputy Commissioner will not in future be necessary, as at present, for appointments of patels and shanbhogs made by proprietors of Inam villages.

Section 8 deals with succession in the case of other village offices than the five specified, where such exist and are recognized. But, as a matter of fact, it may be observed that the connection of Government with such other offices comprised in the ancient *barabaluti* system has practically ceased.

Sections 9 to 15 and 17 to 19 embody the usual provisions about suits, procedure, appeals, limitation and similar matters.

Section 16 bars the jurisdiction of Civil Courts in regard to claims for the succession of village offices in respect of emoluments.

Section 20 will probably become unnecessary on the passing of the Police Regulation now before Government.

Section 21 enumerates the matters in regard to which Government may frame rules; and declares that, till rules as so made, the existing rules shall continue in force.

The Mysore Gazette.

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PART III.

Legislative Measures and Rules thereunder.

NOTIFICATION.

No. 29—L. C., dated the 26th July 1907.

Under Rule 31 of the Rules framed under Regulation I of 1907, the following bills together with the statement of objects and reasons are published for general information :—

THE VILLAGE OFFICES BILL.

A bill to consolidate and amend the Law relating to Village Offices in Mysore.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore; His Highness the Maharaja is pleased to enact as follows :—

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Village Offices Regulation, 190....

(2) It extends to the whole of Mysore, and

(3) It shall come into force with effect from the expiry of one month from the date of its first publication in the official Gazette.

Definitions.

2. In this Regulation, unless there is something repugnant in the subject or context,—

"Village." "Village" means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office." "Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order or with the settlement of boundaries, or other matters of civil administration pertaining to a village, whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known :

Provisos.

Provided as follows :—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may in like manner amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village officer.

"Village Officer."

"Emoluments" means and includes

"Emoluments."

(i) lands;
(ii) assignments of revenue payable in respect of lands;
(iii) fees in money or agricultural produce;
(iv) money-salaries and all other kinds of remuneration, granted or continued in respect of, or annexed to, any village office by the State.

"District Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district.

"District Deputy Commissioner."

"Deputy Commissioner" includes an Assistant Commissioner in charge of a division who, for the time being, is authorized to exercise the powers of a Deputy Commissioner.

"Deputy Commissioner."

Emoluments of village offices inalienable, and not liable to attachment

3. The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Villages may be grouped, amalgamated or divided.

4. (1) The Government may, with reference to rules made in this behalf under section 21, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages and, thereupon, all village offices in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist, and new offices shall be created for the new village or villages.

(2) In choosing persons to fill such new offices, the Deputy Commissioner shall select the persons whom he may consider the best qualified from among the families of the last holders of the offices which have ceased to exist.

Reduction of village offices.

(3) The Government may also direct that the number of village offices attached to a village shall be reduced, and, thereupon, the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices.

Power to punish village officers.

5. (1) The Deputy Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause.

(2) An Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine any holder of a village office in an unalienated village for any of the causes specified in sub-section (1) and in such amount as the Government may, by general or special order, prescribe.

(3) The proprietor of an alienated village may, of his own motion or on complaint and after enquiry, suspend, dismiss or remove any holder of a village office in his village, except the patel, shanbhog, and the village watchman, for any of the causes specified in sub-section (1).

(4) The officer or person taking proceedings against a village officer under any of the preceding sub-sections of this section shall make a record of his reasons for so doing in writing and furnish a copy of the same to such village officer.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

6. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner shall fill up the vacancy in accordance with the provisions of the following sub-sections:—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(a) is not of the male sex;
(b) has not attained the age of majority;

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section 21;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner, disqualifies him for holding the office;

(*f*) by reason of his bad character or antecedents is, in the opinion of the Deputy Commissioner, disqualified for holding the office.

Rule of devolution of succession.

(2) The succession shall be regulated by the ordinary provisions of the Hindu Law: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, lie with the eldest member of the eldest branch of such persons.

In certain cases person other than direct heir may be appointed.

(3) When the next heir is not qualified under sub-section (1), the Deputy Commissioner shall appoint the person next in order of succession (according to seniority of age in the senior branch) who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Temporary disqualification of heir in certain cases.

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Deputy Commissioner may direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of the dismissed or suspended officer; provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3).

Procedure to be adopted when heir is a minor.

(5) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as heir, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner shall fill up the vacancy as provided in sub-sections (2) and (3).

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office and the Deputy Commissioner does not give the direction referred to in sub-section (4), he shall fill up the vacancy in accordance with the provisions of this section as if it had been caused by the death of the said holder; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended, is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold the office.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

(7) When a vacancy occurs in the office of patel, shanbhog, nirganti, toti, or talari of an alienated village, the proprietor of such village shall fill up the vacancy in accordance with the provisions of the following sub-sections:—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex;

(*b*) has not attained the age of majority;

(*c*) is not physically and mentally capable of discharging the duties of the office.

(2) The succession shall be regulated by the ordinary provisions of the Hindu Law: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, lie with the eldest member of the eldest branch of such persons.

Rule of devolution of succession.

(3) Where the next heir is not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession according to seniority of age in the senior branch who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

In certain cases person other than direct heir may be appointed.

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the proprietor shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office, until the person registered as heir is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if, on attaining majority, he proves to be disqualified under clause (c) of sub-section (1), the proprietor shall fill up the vacancy as provided in sub-sections (2) and (3).

Procedure to be adopted where heir is a minor.

8. The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari, shall devolve in accordance with the law or custom applicable thereto at the date on which this Regulation comes into force; or, in the absence of any such law or custom, in accordance with the provisions of sub-section (2) of section 6 and sub-section (2) of section 7 so far as applicable.

Succession in the case of offices other than patel, shanbhog, etc.

9. (1) Any person may sue before the Deputy Commissioner for any village office or for recovery of the emoluments of any such office, on the ground that he is entitled under sub-section (2) or (3) of section 6, or sub-section (2) or (3) of section 7, or section 8 of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner to be registered as heir of the last holder of any such office.

Suits for offices, for recovery of emoluments and for registry as heir.

Provided as follows:—

(i) No suit shall be entertained for a mere declaratory decree.

No suit for declaratory decree.

(ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Deputy Commissioner shall decide the claim on the assumption that only the said assignment constitutes the emoluments; but such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

Procedure in case of dispute as to nature of emoluments.

(2) If, at any time before the completion of the trial of a suit preferred under this section for any office or for the recovery of the emoluments of any office, it appears to the Deputy Commissioner that the claimant is not eligible for appointment under sub-section (1) of section 6 or sub-section (1) of section 7 of this Regulation, as the case may be, he shall pass an order rejecting the plaint.

Rejection of plaint when claimant is ineligible for appointment.

10. (1) No suit preferred before a Deputy Commissioner under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising, whether such date be before or after the commencement of this Regulation.

Limitation of time within which suits may be brought.

Provided that, in the case of a person who, by reason of minority, was disqualified for holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Limitation in case of minority.

(2) No application for the execution of a decree or order passed under this Regulation shall be entertained, if made after the expiration of one year from the date of such decree or order.

Limitation of time within which execution of decree or order may be applied for.

(3) Decrees or orders passed previous to the commencement of this Regulation in regard to claims to village offices or the emoluments annexed thereto, may be executed under the provisions of this Regulation; provided that no application for the execution of any such decree or order shall be entertained if made either after the expiration of three years from the date of such decree or order or after the expiration of one year from the commencement of this Regulation.

Execution of decrees and orders passed previous to commencement of this Regulation.

(4) In cases in which the decree or order sought to be executed was appealed against, the periods of limitation prescribed in sub-sections (2) and (3) shall commence from the termination of the appeal.

Limitation when appeal preferred.

11. The District Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner in charge of a division in the district, or transfer any suit from the file of one such Assistant Commissioner to that of another or to the file of an Assistant Commissioner not in charge of a division, for disposal.

Power of District Deputy Commissioner in regard to transfers of suits.

12. (1) The trial of suits under this Regulation shall be regulated by rules made by Government under section 21 and by the following provisions:—

Procedure to be observed in trying suits.

(i) A date shall be fixed for the hearing of the suit and the same shall be notified to the parties, who shall be entitled to be heard in person or by agent;

Date of hearing to be fixed and parties to be heard.

(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness or that any person shall be summoned to produce a document, and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so;

Witnesses may be produced or summoned.

(iii) The officer trying the suit shall record in his own hand a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.

Record of proceedings.

(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.

Obligation to obey summons.

13. Decrees and orders passed in suits under this Regulation may provide for payment of costs according to such scale and subject to such rules as may be prescribed by Government under section 21, and shall be executed in accordance with rules to be made under the said section.

Decrees may provide for costs and shall be executed according to rules made by Government.

14. (1) If, before or during the hearing of a suit under this Regulation or of appeal against a decree or order passed in a suit under this Regulation, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement for the decision of the Chief Controlling Revenue authority and shall stay further proceedings until the said decision is communicated to him.

In certain cases Deputy Commissioner may refer question of law to the Chief Controlling Revenue authority.

(2) If the officer making the reference to the Chief Controlling Revenue authority is not the District Deputy Commissioner, the reference shall be made through the District Deputy Commissioner.

(3) The Chief Controlling Revenue authority shall, if any of the parties so request, hear him or his agent and shall decide the point referred and transmit a copy of its judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the Chief Controlling Revenue authority, and the correctness of the decision of the Chief Controlling Revenue authority shall not be contested in any appeal made under this Regulation.

Procedure to be followed in case of such reference.

Decision of Chief Controlling authority not to be contested.

15. All suits brought and appeals made previous to the commencement of this Regulation shall, after the commencement thereof, be heard and disposed of as if they had been preferred under this Regulation.

Disposal of suits and appeals pending at commencement of Regulation.

16. No Civil Court shall have authority to take into consideration or decide any claim to succeed to, or to the possession of, any village office, or any question as to the rate or amount of the emoluments of any village office, or except as provided in proviso (ii) to sub-section (1) of section 9, any claim to recover the emoluments of any such office.

Jurisdiction of Civil Courts barred.

Provided that, if, in any suit instituted under this Regulation, the defendant has pleaded before the Deputy Commissioner that a Revenue Court has no jurisdiction to entertain the suit, on the ground that no emoluments, as defined in this Regulation, appertain to the office in respect of which the suit is brought, and if, on appeal preferred from the decree in such suit, the appellate authority has decided adversely to such plea, the defendant may, within six months from the date of the appellate decree, institute a suit in a Civil Court to set aside such appellate decree on the said ground and on that ground only.

Proviso.

17. (1) From every order passed by a Deputy Commissioner under section 4 or 5, and from every decree or order passed by a Deputy Commissioner in a suit preferred under section 9, an appeal shall lie, within one month, to the District Deputy Commissioner, or, if the said order or decree was passed by the District Deputy Commissioner, an appeal shall lie, within three months, to the Chief Controlling Revenue authority. The decision, on appeal, of the District Deputy Commissioner or the Chief Controlling Revenue authority, as the case may be, shall be final.

Appeal against order or decree of Deputy Commissioner.

Provided that, in respect of the offices of patel and shanbhog, a second appeal shall lie, within three months, to the Chief Controlling Revenue authority, against the decision on appeal of the District Deputy Commissioner in suits preferred under section 9 and in cases of dismissal of a village officer under section 5.

Second appeal in certain cases.

(2) From every order passed by an Amildar or Deputy Amildar under sub-section (2) of section 5 and from every order passed by a proprietor under sub-section (3) of section 5, an appeal shall lie within one month, to the Deputy Commissioner, whose decision shall be final.

Appeal against order of Amildar or Deputy Amildar or proprietor.

18. If the officer to whom an appeal is presented under this Regulation in the capacity of District Deputy Commissioner or Deputy Commissioner, happens to be the officer who passed the decision which is appealed against in anthor capacity, he shall report the fact to the Chief Controlling Revenue authority or to the District Deputy Commissioner, as the case may be, and the appeal shall be disposed of by the Chief Controlling authority or District Deputy Commissioner, and the order passed on appeal shall be final.

Disposal of appeal by officer who passed original order.

19. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, *mutatis mutandis*, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Regulation.

Certain sections of the Limitation Act apply.

Power of Government to place village watchmen under Police authorities.

20. The Government may declare that the powers of punishing village officers which are vested in the Deputy Commissioner by this Regulation shall be exercised in any specified local area by the Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or Police officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or Police officer passed by a Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Deputy Commissioner, whose decision shall be final.

Government may make rules on certain subjects

21. (1) The Government may, by notification in the official Gazette, make rules, not inconsistent with this Regulation, in regard to the following matters :—

(i) the division, grouping and amalgamation of villages ;

(ii) the holding of enquiries under sections 4 and 5, and the hearing of appeals under section 17 ;

(iii) the educational qualifications, if any, required of the holders of village offices ;

(iv) the procedure to be followed in disposing of suits and appeals from decrees or orders passed in suits and the registers to be maintained in connection therewith ;

(v) the execution of decrees and orders passed in suits and the taxation of costs ;

(vi) the emoluments to be assigned to the holders of village offices, and the method of assessment and payment thereof

(vii) the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them ;

(viii) the custody, production and transfer of the accounts and other records kept by holders of village offices ;

(ix) any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Regulation.

Until such rules are made, existing rules to be in force.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto immediately previous to the commencement of this Regulation shall, so far as they are consistent with this Regulation, be deemed to be in operation and to have been made under the preceding sub-section.

STATEMENT OF OBJECTS AND REASONS.

The necessity for replacing the existing scattered and disjointed body of rules and orders with regard to village offices in Mysore by a systematic scheme of legislation has engaged the consideration of Government for some time past. Of these rules and orders a few, such as the Rules* for the remuneration of patels and shanbhogs and minor village servants have the force of law ; others are orders passed by Government in appeals from the decisions of Revenue Officers in regular suits ; and a large number are merely administrative orders passed on the miscellaneous side and as such liable to be disregarded by subordinate officers in regular suits. The course of decisions, too, especially in the matter of succession to village offices, has not been by any means always uniform or certain ; with the result—which conflicting decisions induce—of encouraging litigation. Lastly, the success of the Revenue administration depends to a great extent upon the efficiency of the village service ; and the introduction of a law to regulate the latter and place it upon a proper basis follows naturally on the introduction of the Land Revenue Code, which has governed the former for the last fifteen years.

* Issued under the authority of the Government of India, with the Chief Commissioner's Notifications No. 219, dated the 27th October 1874, and No. 123, dated the 1st August 1878.

Such, then, is the occasion for the accompanying Draft Regulation, which, it may be observed, follows to a large extent (but with important variations) the lines of the Madras Hereditary Village Offices Act, III of 1895, the provisions of the latter being found, on careful examination, to be much better adapted to local requirements than are those of the Bombay Hereditary Offices Act, III of 1874.

It now remains to describe briefly the main provisions of the proposed Regulation.

Section 2 deals with definitions.

Under the definition of "village" here given, it will be possible to declare two or more villages ordinarily so called to be a single village for the purposes of the Regulation.

The characteristics of a "Village Office" as here defined are—

(i) the assignment of "emoluments" (a term defined comprehensively in the same section); and (ii) the annexing to the office of duties connected with some branch of the Civil administration pertaining to a village, whether these duties are actually demanded or not.

The provisos give power to Government, on the one hand, to exclude any office from the operation of the Regulation, and, on the other, to decide whether a particular office falls under the definition or not.

The destinction drawn between "Deputy Commissioner" (a term applicable in certain cases to a Divisional Assistant Commissioner) and "District Deputy Commissioner" (denoting the Chief Revenue Officer of the District) is a convenient one, and has been taken from the Madras General Clauses Act, 1891.

Section 3 embodies the existing law with respect to the inalienability of emoluments and their non-liability to attachment and sale by Courts.

Section 4 empowers Government to group, amalgamate or divide villages, and to reduce the number of offices, in a village, as may be necessary.

Section 5 deals with the powers of Deputy Commissioners, Amildars and Inamdars to punish village officers for reasons to be recorded in writing. In consonance with the existing practice, the powers of the Deputy Commissioner to punish officers in alienated villages have been assimilated to those with respect to officers in Government villages. In Madras, the latter powers are subject to restriction.

Sections 6 and 7 declare the rules to be observed in making appointments to the five main village offices of patel, shanbhog, nirganti, toti and talari. It is merely necessary to note that these rules will, among other things, do away with the right of females in certain circumstances, to be registered as the holders of village offices, but not of course, so as to interfere with claims to succession being traced *through* females, and that the rule of devolution of succession to a single heir as laid down will exclude the performance of duties by rotation; the latter being a system attended with many difficulties, not satisfactory on the one hand to the parties concerned, and not conductive, on the other, to the efficiency of business, besides leading to faction, litigation and intrigue and to a relaxation of the sense of responsibility. It may also be remarked that, under Section 7, the confirmation of the Deputy Commissioner will not in future be necessary, as at present, for appointments of patels and shanbhogs made by proprietors of Inam villages.

Section 8 deals with succession in the case of other village offices than the five specified, where such exist and are recognized. But, as a matter of fact, it may be observed that the connection of Government with such other offices comprised in the ancient *barabaluti* system has practically ceased.

Sections 9 to 15 and 17 to 19 embody the usual provisions about suits, procedure, appeals, limitation and similar matters.

Section 16 bars the jurisdiction of Civil Courts in regard to claims for the succession of village offices in respect of emoluments.

Section 20 will probably become unnecessary on the passing of the Police Regulation now before Government.

Section 21 enumerates the matters in regard to which Government may frame rules; and declares that, till rules as so made, the existing rules shall continue in force.

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File No.

Serial No

VI

Diary No. of letter replied to _____

No. 43-54 / L.C.

General and Rev. Secretariat
(L.C.)
, the 190 .

To
Esq., Member, Legl Council
to 12

Date of issue 31.7.07

Signed by Jno. K. Nyles Ras

Sir,

I have the honour ~~am directed~~ to forward herewith, with amendments made by the Legislative Council, a copy of the Village Offices bill, one of this bills for the introduction of which leave was granted in the last meeting of the Legislative Council together with the Statement of Object and reason appended thereto and the papers printed in connection therewith, and to request the favour of being informed of the date on which the bill will be taken into consideration.

I have the
honour
Secretary
Mil. Govt.

(Statement of fees, if any, and other papers, if any, will be sent to you in due course.)

SUBJECT.

Intd. 30/7/07

2/8/07

PAPERS RELATING TO THE DRAFT VILLAGE OFFICES REGULATION.

Letter No 579, dated Bangalore, 19th—21st November 1904, from Col. J. P. Grant, Survey Commissioner in Mysore, to B. K. Venkata Varada Iyengar, Esq., Secretary to the Government of His Highness the Maharaja of Mysore, General and Revenue Department.

I have the honor to offer a few remarks upon the proposed Mysore Village Officers Regulation, as requested in your letter No. J. 1083-1095—Legis. 17-1, dated 3rd November 1904.

2. I append a memo of criticism but, here, make a few general observations on the leading features and general scope of the proposed Regulation.

3. I confess that I view with some alarm the provisions of Section 4 (1). The Potgi Rules, admitted, in the statement of objects and reasons, to have the force of law, have already, so far as patels and shanbhogs are concerned, dealt, both provisionally and in practice, with the grouping of villages for purposes which must also, if the Potgi Rules are to be respected, be the purposes of the Regulation now proposed. The use of the word "until" in Section 21 (2), read with the subject matter in that sub-section, is calculated to create doubt. The rules to be made under the proposed Regulation might possibly, override the Potgi Rules.

So far as the nirganti, toti or talari is concerned, Section 4 (1) may be necessary, although even on this point I am not quite clear, but, as regards patels and shanbhogs, reiteration of the provisions of the Potgi Rules appears to me dangerous. At all events I would suggest the absolute safeguarding of what has been done, or may hereafter be done, under the Potgi Rules. The alteration of the "charges," especially shanbhog charges, fixed by the Survey, is constantly attempted, although strictly forbidden by Government, and I cannot help fearing that unless the potgi grouping of villages be most carefully saved, and affirmed, a loophole to further disregard of orders may be opened.

4. I observe, alluding chiefly to Section 6 and its sub-sections, that provision for the appointment of deputies, whether by the Deputy Commissioner or by the registered heir, is not made, although this privilege is at present in practice, and in some cases is necessary as for instance, when the heir is also heir to another office, or when the heir has another appointment, or has to recide elsewhere. The proposed Regulation permits the appointment by the Deputy Commissioner of a substitute in certain cases such as minority, suspension, dismissal and temporary absence, but no status is given to the appointment of deputy. I do not see what objection there can be to recognizing the office of deputy and making due provision in the Regulation. Under the Bombay Hereditary Officers Act the watandar whose duty it is to officiate, he being a fit

and proper person, performs the duties himself, if so required, but may be permitted by the Collector to appoint a deputy. The adoption of my suggestion will admit of Section 6 and its sub-sections being considerably abridged. The deputy should, whether appointed by the Deputy Commissioner or by the heir, be, where possible, a member of the family of the registered heir, if such member be willing and qualified to officiate. In cases of dismissal and very short vacancies, any qualified person whether of the incumbent family or not might be appointed deputy. The above are a few suggestions which seem to me with reference to recasting Section 6.

ENCLOSURE.

Memo on the proposed Mysore Village Officers Regulation, 190 .

Section 4.—For general opinion see letter.

Sub-section (1).—Section quoted in 3rd line should be 21 not 16. To group and to amalgamate seem, for the purpose intended, one and the same thing.

Section 6.—For general opinion see letter.

Sub-section (1).—Section quoted in (*d*) should be 21 not 16.

Section 7.—Is by mistake printed as a sub-section.

Section 12.—Section quoted in 3rd line should be 21 not 16.

Section 13.—Section quoted in 5th line should be 21 not 16.

Section 14.—"Chief Controlling Revenue authority" should be defined.

Section 21.—*Sub-section* (2) : see letter for opinion.

This sub-section, in my opinion, requires reconsideration.

Letter No. dated Camp Kadur, 20th November 1904, from M. Narain Rao, Esq., Deputy Commissioner, Kadur District, to B. K. Venkata Varada Iyengar, Esq., Secretary to the Government of His Highness the Maharaja of Mysore, General and Revenue Department, Bangalore.

In reply to your letter No. J. 1085-95—Legis. 17-1, dated the 3rd instant, calling for my opinion on the Draft Regulation to consolidate and amend the law relating to village offices in Mysore, I have the honor to submit the following remarks:—

Section 2. Definition of "Village."

2. After the word "recognized," I would add "in the Revenue accounts." Dakhla villages or hamlets are not recognized in the Revenue accounts, though they are ordinarily known as villages for other purposes.

Section 2. Definition of "Village Office."

3. A comprehensive definition of the term "village office" such as that given in the Draft Regulation so as to include not only the twelve offices falling within the Bara-

baluthi service but also other offices held for service rendered to the village community, seems unnecessary. The Regulation is apparently intended to legalize the existing orders relating to the five offices which are now recognized as "village offices" and the emoluments of which in money or land are inalienable, *viz.*, (1) the shanbhog, (2) the patel, (3) the toti or kulawadi, (4) the talari and (5) the nirganti. These officers are responsible to Government for the services they have to render, while no such responsibility attaches to the performance of the remaining seven offices noted in the margin, the Inam lands attached to which have been enfranchised and declared alienable, inasmuch as the services are not now required to be rendered. Under such circumstances the term "village office" for the purpose of the Regulation may be defined to mean and include the shanbhog, the patel, the toti or kulwadi, the talari and the nirganti. If this suggestion be approved, the provisos following the definition will become unnecessary.

1. The Village Blacksmith.
2. „ Carpenter.
3. „ Goldsmith.
4. „ Washerman.
5. „ Barber.
6. „ Kumbar or potter.
7. „ Madiga.

Section 2. Definition of "District Deputy Commissioner" and "Deputy Commissioner."

4. The term "District Deputy Commissioner" is a novel one and there seems no necessity for its introduction. The term "Deputy Commissioner" may be defined as follows:—

> "Deputy Commissioner" means the chief local officer in charge of the Revenue Administration of a District and includes an Assistant Commissioner in charge of a Taluk or Taluks who for the time being is authorized by Government to exercise the powers of a Deputy Commissioner."

Section 4.

5. Power should be taken for the appointment of two patels for a single village where necessary in the interests of efficient village administration, one for Revenue and the other for Police duties, the emoluments being divided between them in equal shares.

Section 5 (1).

6. Dismissal or removal from office being in effect the same, the words "or remove" after the word "dismiss" may be omitted and the word "or" inserted after "suspend."

7. It would be well to lay down that the maximum amount of fine to be imposed shall not exceed two months' emoluments in the case of those officers whose emoluments are paid in cash.

Section 5 (2).

8. Similarly, the amount of fine which an Amildar or Deputy Amildar can impose may be specified at half a month's emoluments where they are paid in cash or rupees. two in other cases.

Section 5 (3).

9. The words "or remove" may be struck out and the word "or" inserted after "suspend."

10. Proprietors of alienated villages having the power to make appointments of village officers in their villages under Section 7 should also have the power to punish all of them for misconduct or other sufficient cause. The words "except the patel, shanbhog and the village watchman" may therefore be omitted.

11. Some provision must be made in regard to the punishment of the village officers in alienated villages which are owned not by a single individual but by several vrittidars.

Section 6 (4).

12. Provision must be made for cases in which it may become necessary to permanently deprive the hereditary village officer and his descendants of the office held by him in consequence of the heinousness of the offence committed by him.

Section 6 (5).

13. In the appointment of a gumasta for a minor village officer, regard should be had to the wishes of the minor's guardian; and if he fails to nominate a competent person, the Deputy Commissioner should have the power to make the appointment.

14. If the person appointed under Sub-sections 2 and 3 or 6 of this section is not able to discharge the duties himself by reason of his employment in the Government service or otherwise, he may be allowed to appoint a competent member of his family or other person to discharge the duties of the office, subject to the approval of the Deputy Commissioner.

15. All appointments made under this section and Section 7 should be recorded in a register to be kept in the Taluk Cutcherry.

Section 7.

16. Sub-sections (1), (2), (3) and (4) of this section are but a repetition of the provisions of Sub-sections 1, 2, 3 and 5 of Section 6 and may be omitted by altering the section as follows:—

> "When a vacancy occurs in the office of patel, shanbhog, toti, talari or nirganti in an alienated village, by reason of the death, resignation, dismissal or suspension of the last holder, the proprietor of such village shall fill up the vacancy in accordance with the provisions of the last preceding section and shall give intimation of the appointment made by him to the Amildar or Deputy Amildar of the taluk or sub-taluk in which the alienated is situated."

17. Such intimation of appointments made in alienated villages is necessary in order that the Police of the taluk might know who is answerable for the performance of Police duties connected with the village.

18. It is also necessary to reserve to the Deputy Commissioner the power of filling up vacancies occurring in alienated villages on failure of the proprietors thereof to do so within a month after the occurrence of the vacancy.

Section 8.

19. This section may be omitted.

Section 11.

20. The word "District" before "Deputy Commissioner" may be omitted.

Section 12 (1).

21. It is better to provide once for all that the trial of suits under the Regulation shall be regulated by the provisions of the Civil Procedure Code.

Section 14 (1), (2) and (3).

22. These provisions seem unnecessary. Such references would prevent questions of law or usage having the force of law or relating to the construction of documents being argued in full before the appellate Courts.

Section 16.

23. The proviso to this section does not seem necessary. The question of jurisdiction when once decided by an appellate authority on the Revenue side, should not, I think, be again brought up before a Civil Court.

Section 17.

24. I do not see any reason why the existing well-known procedure as regards appeals should be discarded. Second appeals should, I think be freely allowed, and no order or decree that is not passed by Government should be final. In this view, I would revise Section 17 as follows:—

"From every order passed by an Amildar or Deputy Amildar under Sub-section (2) of Section 5 or by a Proprietor of an alienated village under Sub-section (3) of Section (5) or under Section 7 or by an Assistant Commissioner under Sections 4, 5 or 6 and from every decree or order passed by an Assistant Commissioner in a suit preferred under Section 9, an appeal shall lie to the Deputy Commissioner within thirty days."

"From every order or decree passed by the Deputy Commissioner under the Regulation, whether in appeal or otherwise, an appeal shall lie to the Government within ninety days."

25. In computing the above periods, the time required to prepare a copy of the decision or order appealed from should be excluded.

26. The provisions of Sections 213, 214, 215, 216 and 217 of the Land Revenue Code may advantageously be repeated in this Regulation.

Section 18.

27. This section may be omitted if there is to be no restriction as to second appeals.

28. The other points regarding which provision may be made in the Regulation are—

(*a*) The saving of existing appointments;

(*b*) the recognition of the division of villages comprising a shanbhog's charge among brothers at partition;

(*c*) the inadvisability of allowing one and the same person holding more than one village office in the same village and

(*d*) the issue of sannads to shanbhogs and patels.

Letter No. 412, dated Tumkur, 5th December 1904, from K. Doraswami Iyer, Esq., Deputy Commissioner, Tumkur District, to B. K. Venkata Varada Iyengar, Esq., Secretary to the Government of His Highness the Maharaja of Mysore, General and Revenue Department.

In reply to your letter No. J. 1085-95—Legis. 6-17-1, dated the 3rd ultimo, calling for the opinion of myself and of the Assistant Commissioners on the Draft Regulation relating to village officers in Mysore, I beg to suggest for the approval of Government the following modifications of a few sections of the Regulation:—

Definitions. "District Deputy Commissioner." "Deputy Commissioner."

The definitions "District Deputy Commissioner" and "Deputy Commissioner" might cause much unnecessary confusion. It is better to retain the designations Deputy Commissioner and Assistant Commissioner and define them. As an Assistant Commissioner in charge of taluks exercises the powers of a Deputy Commissioner under Section 8 of

the Land Revenue Code, his designation as it stands in the Revenue Code may be adopted in the new Village Officers Regulation.

Section 6 (1)
General qualifications requisite in all cases.

In clause *(f)* under Sub-section (1), the insertion of the words "factious spirit" after the word "character" appears necessary.

Section 14.
(1) In certain cases Deputy Commissioner may refer question of law to the Chief Controlling Revenue Authority.

In this section I would omit the words "either of his own motion or on the application of any of the parties" and recommend provision being made for Assistant Commissioner referring the point to Deputy Commissioner or Deputy Commissioner to the Chief Controlling Revenue Authority, as the case may be.

Sub-section 2.

Then Sub-section (2) may be omitted.

Proviso to Section 16.

In the proviso either the words "Before the Deputy Commissioner" may be omitted or the words "or Assistant Commissioner" be added.

Section 20.
Power of Government to place village watchmen under Police authority

I do not think there is any necessity for this section.

Report No. 71, dated 28th November 1904, from the 1st General Assistant Commissioner.
Do No. 25, dated 21st do. from the 2nd do.

II. I beg to enclose copies of the opinions* received from the Assistant Commissioners in the district on the subject, with my remarks appended marginally.

ENCLOSURES.

Letter No. 71, dated Tumkur, 28th November 1904, from C. Seshadriengar, Esq., 1st General Assistant Commissioner, Tumkur District, to K. Doraswami Iyer, Esq., Deputy Commissioner, Tumkur District.

In acknowledging the receipt of your docket No. 511, dated 12th instant, received on the 17th, forwarding copy of a Draft Regulation to consolidate and amend the law relating to village officers, for my opinion, I have the honor to state as follows:—

Section 5.
Power to punish village officers.

Deputy Commissioner's Remarks.

This may be necessary.

An Amildar or Deputy Amildar is not given any powers to punish village officers in alienated villages. This will cause great inconvenience. If an Amildar or Deputy Amildar visits an alienated village and finds it insanitary and the village officers have altogether neglected to perform their duties, what is he to do? He will be left in a precarious position. He will not be able to maintain discipline in these villages unless he has control over the village servants. I think it is necessary to give him powers to fine these village servants in the same manner and to the same extent as he fines the servants in unalienated villages.

Sections 6 and 7.
General qualifications requisite in all cases.

2. Amongst other qualifications enumerated in Sub-section (1), the following may be added:—

(*g*) By reason of his being not in solvent condition.

I agree here.

This clause is especially necessary in the case of shanbhogs and patels who generally keep Government money before sending remittance to the Taluk Treasury. Although virtually the shanbhogs are prohibited from keeping Government money with them, still they do so in practice under certain unavoidable circumstances.

3. The exclusion of females from the right to succeed is no doubt beneficial. But I think it will work as a great

hardship especially in the case of widows having no sons or daughters. They will be left altogether destitute. An exception might be made in their case. They have been long enjoying the privilege. The administrative necessities might be fully met with if they are given no option to select an officiator. Their names might be registered and they may be allowed a small portion of the emoluments say $\frac{1}{3}$ for their maintenance. The arrangement might be easily settled with the officiator. They must not be allowed to have any voice in the selection and nomination of officiators. This will put an end to the unnecessary difficulties now being experienced.

Section 10—(1) Limitation of time within which suits may be brought.

4. Only three years' time is allowed from the date of the cause of action arising under this Section. This period is in my opinion altogether insufficient. The Limitation Act allows twelve years' time for the recovery of hereditary offices where possession is adversely held. I think the same period may be allowed in all cases of regular suits, or at least the period may be extended to six years.

Section 20—Power of Government to place Village Watchmen under Police authority.

5. Who are village watchmen and Police officers whom the Superintendent or Assistant Superintendent may punish may be fully described. I think the patels and talwars are the only officers that come under this category.

6. I have no more suggestions to make. The Regulation which is a very useful one may be passed with the above additions and modifications.

Letter No. 25, dated 21st November 1904, from P. Srinivas Rao, Esq., 2nd General Assistant Commissioner, Tumkur District, to K. S. Doraswami Iyer, Esq., Deputy Commissioner, Tumkur District.

Deputy Commissioner's Remarks—I agree with Mr. Srinivas Rao in the opinion given in the last sentence of this letter.

Referring to your docket No. 511, dated 12th instant, calling for my opinion regarding the Draft Regulation to consolidate and amend the law applicable to village officers in Mysore, I have the honor to state that I am fully impressed as to the necessity of the measure. I have, however, one observation to offer regarding the suggestion continued in the statement of objects and reasons to do away altogether with the system of allowing the performance of duties by rotation.

The amendment proposed in this respect is a very desirable one as far as it relates to shanbhogs and patels, but the extension of the principle to other village servants, *viz.*, talaris, totis and nirgantis, is in my opinion attended with disadvantage.

The duties pertaining to these offices are now generally done by more than one person, these being members of the collateral branches of the same family. One member holds office and enjoys its perquisites for a year. He then vacates the office for another member. The work is done by turns. To abolish the system would be viewed as a hardship by the parties concerned. One advantage to the village service by continuing the existing practice is that on extraordinary occasions the village is enabled to indent upon the services of a plurality of servants. I am averse to allowing this beneficial feature of the present system to disappear.

Letter No. 503, dated 22nd December 1904, from D. Devaraj Urs, Esq., Deputy Commissioner, Bangalore District, to B.K. Venkata Varada Iyengar, Esq., Secretary to the Government of Mysore, General and Revenue Department.

With reference to your No. J. 1085-95—Legis. 17-1, dated 3rd November 1904, forwarding for opinion copy of the draft of a Regulation to consolidate and amend the law relating to village offices in Mysore, I have the honor to state that the legislation in this direction was highly desirable as the law in the matter was hitherto piece-meal and scattered being mostly case law resulting in diversity of opinion and difference in practice. In expressing my concurrence in the provisions of the draft Regulation in general, I beg to offer a few of the following observations.

Sections 5 and 7 provide for the power to punish village officers and to appoint them respectively in alienated villages. As regards the patel, shanbhog and the village watchman, the Deputy Commissioner alone is empowered to punish them, the proprietor being empowered to punish the other village officers only, *vide*, Section 5 (1) and (3) while the power of appointing them all rests with the proprietor (*vide* Section 7). I think this is opposed to principle. The power of appointing and that of punishing should rest with one officer. So, the appointment of the patel, shanbhog and the village watchman should be subject to the confirmation by the Deputy Commissioner, that of other village officers being in the hands of the proprietor himself he being also the man to punish. If this suggestion is adopted then Sub-sections (*c*) and (*f*) under (1) of Section 6 should find a place under Section 7 also as regards the appointment of these three village officers.

When there are no village officers other than the five referred to in Sections 6 and 7, I do not see why the Section 8 should be retained.

There is no need for deputing the power to punish the village watchman to Superintendent or Assistant Superintendent of Police as thereby these village officers will be subject to the orders of more than one District Officers. Hence I think Section 20 may be omitted.

In Sections 4, 6 (1) (d), 12, and 13, reference is made to Section 14 regarding the power of Government to make rules on certain subjects. I think 14 ought to be 21.

I do not see why in the presence of the existing terms of Assistant Commissioner, Deputy Commissioner and Revenue Commissioner, terms Deputy Commissioner, District Deputy Commissioner and the Chief Controlling Revenue authority are used in the draft rules, I think this creates unnecessary confusion. I would therefore recommend the substitution of terms in use.

Letter No. 105, dated Camp Arsikere, 17th January 1905, from P. R. W. Witherall, Esq., Deputy Commissioner, Hassan District, to B. K. Venkata Varada Iyengar, Esq., Secretary to Government of His Highness the Maharaja of Mysore, General and Revenue Department.

Adverting to your letter No. J. 1085-95—Legis. 17-1, dated 3rd November last, forwarding for opinion copy of

the draft of a Regulation to consolidate and amend the law relating to village offices in Mysore together with a statement of objects and reasons, etc. I have the honour to submit herewith the marginally noted references received from the Assistant Commissioners of the District expressing their opinions in the matter and to state as follows:—

Senior Assistant Commissioner's Yadi No. 633, dated 31st December 1904.

General Assistant Commissioner's Yadi No. 1130, dated 6th December 1904.

Treasury Assistant Commissioner's Yadi No. 602, dated 5th January 1905.

Section 2, "Village Officer."

1. Mr. K. Chandy, General Assistant Commissioner, states that police duties of the patel have not been clearly defined by the words "or with the maintenance of order or with the settlement of boundaries or other matters of Civil Administration pertaining to a village." But it appears to me that police duties are included in the term "Civil" as used in contradistinction to Military.

"District Deputy Commissioner" and "Deputy Commissioner."

2. Potgi Rule XXX lays down that the "District Officer" (presumably the District Deputy Commissioner as defined in Section 2 of this Regulation) will be the sole judge of the competency or otherwise of the person on whom devolves the performance of an office. As in the definition of "Deputy Commissioner" an Assistant Commissioner in charge of a Division is also included and as such Assistant Commissioner is also empowered by this Regulation to appoint or punish village officers, the term "District Officer" used in the said Potgi Rule will have to be corrected agreeably to the proposed Regulation.

Section 6 (1) General qualifications requisite for a Patel, Shanbhog, etc.

3. Mr. K. Chandy opines that the Deputy Commissioner may well be given the discretion of appointing women to village offices if such are found competent as he has come across two women-patels and several women kulwadis efficiently discharging their duties. There are no doubt a few instances of the kind but this fact cannot be taken as applicable to all cases as such appointments are attended with many difficulties and the rule does not interfere with hereditary claims to succession being traced through females.

In this connection I beg to add that this rule operates rather harshly especially in the case of sonless widows of Shanbhogs who are generally Brahmins and who by the nature of their caste and custom are prohibited from earning their livelihood by manual labour. It would therefore appear desirable to add a provision for the maintenance of such widows out of the emoluments attached to the office.

4. As all the payments of Government revenue should generally be made to the village patel (*vide* Land Revenue Rule 91) it seems desirable for the security of Government money that a clause be added prohibiting a pauper or insolvent from holding a pateli office.

Section 6 (5)

5. A provision in the Regulation appears necessary for the payment of a portion of potgi to the minor baravarddar by the gumasta who looks after the duties of the office of Patel or Shanbhog during the minority of the baravarddar, so that the latter's education may be well attended to as otherwise the same may be neglected for want of means.

Section 7. Appointments to the offices of Patel, Shanbhogs, etc., in alienated villages.

6. As regards the nomination of Patels and Shanbhogs in Inam villages, I quite agree with the General Assistant Commissioner and the Senior Assistant Commissioner that such appointments by Inamdars should be made subject to the approval of the "Deputy Commissioner" as was previously provided in Section 5 of the General Rules applicable to all Village Officers (*vide* pages 52—53, Mysore Revenue Manual). And it also appears necessary to provide for the appointment of Patels and Shanbhogs by the "Deputy Commissioner" in instances where Inamdars fail to make such appointments within a reasonable period after being called upon to do so. In such instances appeals under sub-section (2) of Section 17 would lie to the "District Deputy Commissioner" or in the unavoidable event of the confirmation order being passed by the latter himself the appeal would lie to the Chief Controlling Revenue authority.

7. It may be also noted that there is no General Section providing for the framing of plaints and petitions of appeal and other matters not provided for by this Regulation, regarding which the provisions of the Code of Civil Procedure in force for the time being should be followed as far as possible.

Letter No. 662, dated 15th February 1905, from H. H. Sparkes, Esq., Deputy Commissioner, Mysore District, to B. K. Venkata Varada Iyengar, Esq., Secretary to the Government, General and Revenue Departments.

1. Letter No. 310, dated 13—14th November 1904, from Mr. C. Venkat Row, Assistant Commissioner, French Rocks Division.
2. Do No. 90, dated 14th November 1904, from Mr. A. Subramanya Iyer do Krishnarajpete Division.
3. Do No. 281, dated 30th November 1904, from Mr. C. Krishna Row do Mysore Division.
4. Docket No. 33, dated 2nd December 1904, from Mr. S. Vaidyanatha Iyer, Senior Assistant Commissioner, Nanjangud Division.
5. Do No. 130, dated 6th December 1904, from Mr. C. Devaraj Urs, Assistant Commissioner, Hunsur Division.

Referring to your letter No. J. 1085-95—Legis. 17-1 of the 3rd November 1904, calling for opinion on the Draft Regulation to consolidate and amend the law relating to village offices in Mysore, I have the honor to submit herewith in original for the information of Government the opinions on the subject received from the Assistant Commissioners noted in the margin. The success of the Revenue Administration depends almost entirely upon the efficiency of the Village Service. The introduction of a law to regulate the same and place it upon a proper basis is highly desirable.

Personally I am of opinion that the draft regulation requires no alteration, of course we must expect a certain amount of difficulty in introducing such an innovation but I have no doubt that with care and patience this will soon be overcome.

ENCLOSURES.

Letter No. 310, dated 13th—14th November 1904, from C. Venkata Rao, Esq., B.A., Assistant Commissioner, French Rocks Division, to M. Kantaraj Urs, Esq., B.A., Deputy Commissioner, Mysore District.

With reference to your Circular No. 222, dated 7th November 1904, calling for opinion *in re* the draft Village Officers Regulation, I beg to state that the Regulation will be a useful guide for the disposal of the vexed questions relating to village offices and will do away with conflicting and varying practices in vogue in Districts and an uniform practice may hereafter be expected in all the districts.

The abolition of the practices of registering females as hakdars and performance of the duties by rotation will knock on the head of all unnecessary litigation and scheming relatives will be shut out from the offices, thus conducing to the efficient discharge of business of persons entitled to the offices.

In conclusion, I beg to suggest that a paragraph defining the duties of the Village Officers and the manner in which the alienated emoluments or those in the enjoyment of others are to be resumed and made over to the party entitled therefor, may not, in my humble opinion, be out of place, in the Regulation, unless the existing rules and circular orders are not to be replaced by the Regulation.

Letter No. 90, dated 14th November 1904, from A. Subramanya Iyer, Esq., B. A., Assistant Commissioner, Krishnarajpete Division, to M. Kantaraj Urs, Esq., B. A., Deputy Commissioner, Mysore District.

With reference to your Memo No. Cir. 222, dated 7th instant, calling for my opinion on the draft of the Mysore Village Offices Regulation, I have the honor to state that the introduction of such a Regulation appears to me necessary.

2. In the draft, reference is made to Section 16 as the section enabling Government to frame rules; but I find that the Section is 21 and not 16.

3. In the statement of objects and reasons, it is said that Sections 6 and 7 "do away with the right of females *in certain circumstances* to be registered as the holders of village offices, but not of course so as to interfere with claims to succession being traced through females etc." The Sections appear to mean that in no case is a female to be recognised.

4. Section 10 sub-section (1) says that no suit is to be entertained "which is not preferred within three years from the date of the cause of action arising, whether such date be before or after the commencement of this Regulation." The period now being allowed is twelve years; and so at the time when the Regulation comes into force there may be cases in which the cause of action has accrued more than three years before that date. It will be hard if suits in such cases should be time-barred. I would suggest a proviso to the effect that in cases in which the cause of action has arisen before the introduction of the Regulation the suits should be filed within three years from the date of the introduction of the Regulation provided that it is within twelve years from the date of the cause of action arising.

5. It appears to me that Section 12 is unnecessary and that the matters provided for in the rules to be issued under Section 21.

Letter No. 281, dated 30th November 1904, from C. Krishna Rao, Esq., Assistant Commissioner, Mysore Division, to M. Kantaraj Urs, Esq., Deputy Commissioner, Mysore District.

Deputy Commissioner's Circular No. 222, dated 7th November 1904, and Reminder No. 803, dated 29th November 1904.

With reference to the marginally noted correspondence, I have the honor to submit my opinion on the draft Regulation relating to the service of village officers.

2. *Section 3.*—The provision of the emoluments of village officers, not being allowed for attachment by any Court is very good.

Section 6.—(1) The provision removes the present anomaly of recognizing the females as baravarddars for the village service. But in some cases we must be empowered to give consideration in exceptional cases.

(d) The educational qualification prescribed is advantageous.

(7) The provision of allowing the proprietor of an alienated village to appoint his own village servants is good, and removes the present anomaly. It gives a right to the proprietor which must be exercised by him rather carefully. If the proprietors are more than one, the question will arise as to who should appoint such men. In most cases they have no unanimity, and are dissentients. They have no courage to appoint qualified men. In such cases I consider that the Deputy Commissioner should be empowered to appoint such village servants without which the rule cannot be carried out satisfactorily.

Section 9.—(1) The provision of allowing the Deputy Commissioner to entertain suits of village servants of alienated villages is good and removes the want felt by many.

Section 20.—To place village watchman under Police authorities for punishing them is a dual control and cannot work satisfactorily. The present custom of having one authority would work better. The police has one individual Department to look to, whereas the Revenue Department will have to consider *pros* and *cons* of each case. In my experience of revenue work for a quarter of century, I consider that I never disagreed with the Police Department in punishing the village watchmen or rewarding or removing them where needed.

These servants should get a sannad in the present prescribed form for patels.

3. In other respects the provisions of the Draft Regulation are good and advantageous.

Letter No. 33, dated Camp, 2nd December 1904, from the Senior Assistant Commissioner, Nanjangud Division, to the Deputy Commissioner, Mysore District.

In reply to his Circular No. 222, dated 7th ultimo, calling for opinion on the "Draft Regulation to consolidate and amend the law relating to Village Officers in Mysore," has the honor to state that only two additions appear to the undersigned necessary under Rule 12 of the draft Regulations, the first in regard to the process fees leviable when parties require witnesses to be summoned and second to the penal provision against their giving false evidence.

He would therefore suggest the insertion of (1) a phrase "at their own costs" after the word "document" in line 6 of Sub-Section II and (2) of a fresh clause under Sub-Section III to the effect that "parties and witnesses giving false evidence and declaration shall be liable to be punished under the provisions of the Penal Code."

The other rules call for no alteration and may stand as they are.

Letter No. 130, dated 6th December 1904, from C. Devaraj Urs, Esq., Assistant Commissioner, Hunsur Division, to M. Kantaraj Urs, Esq., B.A., Deputy Commissioner, Mysore District.

Adverting to his Circular docket No. 222, dated the 7th November 1904, calling for opinion on the draft of a

Regulation to consolidate and amend the law relating to village servants in Mysore, has the honor to state that a Regulation of the kind in question appears to be quite necessary.

Letter No. 637—441, dated 16th February 1905, from M. S Narayana Rao, Esq., Deputy Commissioner. Shimoga District, to B. K. Venkata Varada Iyengar, Esq., Secretary to the Government, General and Revenue Department.

From Assistant Commissioner, Shimoga Division, No. 112, dated 14th November 1904.

From Assistant Commissioner, Honnali Division, No. 60, dated 26th November 1904.

From Assistant Commissioner, Sagar, No. A, dated 31st December 1904.

Adverting to your No. 1085-1095—Legis. 17-1, dated 3rd November last, anent the furnishing of opinion regarding draft Regulation to consolidate and amend the law relating to village officers in Mysore, I have the honor to enclose copy of replies noted in the margin received from the Assistant Commissioners in this district and to state that I see there is nothing to add or to alter in the provisions of the draft Regulation.

ENCLOSURES.

Letter No. 112, dated 14th November 1904, from C. Narayana Rao, Esq., Assistant Commissioner, Shimoga Division, to M. S. Narayana Rao, Esq., Deputy Commissioner, Shimoga District.

With reference to your No. 1173, dated 10th November 1904, forwarding copy of the Draft Regulation to consolidate and amend the law relating to village officers in Mysore and calling for an expression of my opinion regarding the provisions contained therein. I have the honor to state that in my opinion no material alteration appears to be necessary to be made in the Regulation.

2. Under Section 11 of the Draft Regulation, however, the Deputy Commissioner is empowered to transfer any suit to his file from that of an Assistant Commissioner in charge of a division, or from the file of one Assistant Commissioner to that of another. In the latter case at least it would be proper, I think, to require the District Deputy Commissioner to record some reason for the transfer of the case

3. In Section 17, it is said that an appeal should lie to the Chief Controlling Revenue authority from the decision of the Deputy Commissioner, but the expression, "Chief Controlling Revenue authority" has not been defined in the Regulation.

4. Section 20 contemplates that Government may declare that the Superintendent or Assistant Superintendent of Police may exercise in any local area the powers vested in the Deputy Commissioner of fining village servants. This would be a new departure and it may give room for general discontent among village servants who always appear to have had misgivings about the control exercised over them by the Police Officers. The present practice under which the Deputy Commissioner of the District punishes village officers and servants on the recommendation of the Superintendent or Assistant Superintendent has been working satisfactorily and I think therefore this special provision to be unnecessary.

5. Again the time allowed to the village officials for appeal against the decisions of Amildars and Deputy Amildars is only one month. This in the case of the village

officials in the distant part of the district is insufficient. I would therefore propose that the time may be extended to two months.

Letter No. 60, camp, dated 26th November 1904, from K. Mathan, Esq., B. A., Assistant Commissioner, Honnali Division, Shimoga, to M. S. Narayana Rao, Esq., Deputy Commissioner, Shimoga District.

With reference to your Memo No 1173, dated 10th November 1904, calling for my opinion regarding the draft Village Officers Regulation, I have the honor to submit the following:—

I entirely agree in the main principles of the proposed Regulation. It fixes powers of appointment, removal and punishment, simplifies the procedure regarding suits and abolishes the vexatious and inconvenient practice of having two or more holders of the same appointment doing duty jointly or by turns. The barring of female succession in the case of the principal village offices is an important departure from the existing practice. The appointment of females to offices, the duties of which they are generally incapable of performing has resulted in the employment of officiators, who having no sense of responsibility are generally unsatisfactory and there is no end to the inconvenience and trouble that have arisen from such appointments. Many people may have a benevolent idea that if the widow or unmarried daughter of a village officer is the principal heir to the officer who has died, such persons should be appointed to the office to prevent her becoming destitute. They, however, forget that the hereditary principle is intended for the better discharge of the duties, of the office, and not the office for the hereditary principle. The proposed alteration of the existing practice is therefore a step in the right direction – a step towards the further discouraging of the hereditary principle when more qualified persons are available.

2. To the qualification for appointment to the duties of patel and shanbhog I would add a property qualification which may vary in different localities according to limits which may be fixed by Government. A patel or shanbhog who does not own more property than the ordinary villagers cannot command their respect.

3. The circumstances under which a village officer may be removed are explained in Section 5 (1) and (3). To these I would add "the occurrence or discovery of any other circumstance which if it had existed or had been discovered prior to his appointment would have disqualified him for the appointment." It may be held that the words "for any other sufficient cause" include such circumstances, but it would, I think, be better to expressly mention it.

4. In the case of an Inam village the power of appointment to village offices is vested in the proprietor of the village, but a provision might be added that if the proprietor fails to appoint a person to the vacant office, say within three months of its becoming vacant, or if there being several vrittidars, they cannot agree among themselves as to the person to be appointed, the Deputy Commissioner might appoint a person to the vacant office.

5. Provision might be made for the appointment of an officiator if the registered holder of the office becomes temporarily incapacitated or is given leave. This is omitted in Section 6 (*b*).

6. Resignation in favor of a specified person or disposing of the appointment by will should not be allowed.

7. A clause might be added that the holders of the more important offices of patel, shanbhog, nirganti and talari, shall not be allowed to resign their offices or cease to perform their duties without giving due and sufficient notice of the intended resignation.

Letter No. A, dated 31st December 1904, from B. Krishna Rao, Esq., Assistant Commissioner, Sagar, to M. S. Narayana Rao, Esq., Deputy Commissioner, Shimoga.

His memo No. 1173, dated 10th November 1904, calling for opinion on the Draft Village Officers Regulation.

With reference to the above, has the honor to state that no explicit provisions have been made for the recognition of the right of a childless widow or the only daughter of a deceased office-bearer of a divided family. In para 11 of the objects and reasons it is stated that rules do away with the rights of females in certain circumstances to be registered as the holders of village offices. These circumstances have not been mentioned. If the provisions of clause (2) and (3) of Section 6 are sufficient to meet the requirements in such cases, the Regulation does not require any addition or alteration.

Letter No. 466, dated 8th March 1905, from K. P. Puttanna Chetty, Esq., Deputy Commissioner, Kolar District, to B. K. Venkata Varada Iyengar, Esquire, Secretary to the Government of Mysore, General and Revenue Department.

Adverting to your letter No. J. 1085-1095--Legis. 17-1, dated 3rd November 1904, forwarding for my opinion copy of the draft of a Regulation to consolidate and amend the law relating to village officers in Mysore, I have the honor to state that the Regulation is one to be heartily welcomed and supplies a long-felt want. I feel sure that it will tend to improve the tone and morale of the village service and will remove many of the imperfections and disabilities which now stand in the way of its efficiency.

2. I beg to offer the following suggestions on a few points:—

Section 2. Definition of Village.

The words "in Government accounts" may be added after the word "village" in the 2nd line. The whole will then read as "Village means any local area now recognized "as a village in Government accounts, or hereafter declared "by Government to be a village."

This addition appears to be necessary in order to exclude Dakhla villages which are also recognized locally, but not in Government accounts as villages.

Section 2. Village Office.

It is very necessary to enumerate the classes of village offices to which this Regulation applies. The village establishment which is called the *Barabaluti* or *Iyengady* is

composed of the following office-holders and handicrafts-men (*vide* Appendix I on page 61 of the Revenue Manual).

1 Gowda—Patel—Headman of the village.
2 Shanbhog—Accountant.
3 Kulvadi *alias* Toti—the watchman of the village.
4 Talari—Policeman.
5 Nirganti—Regulator and distributor of water to fields.
6 Madigar—Carrier and shoemaker.
7 Agasa or Dhobi—Washerman.
8 Nayinda or Hajam—Barber.
9 Kabbinadava or Lohar—Ironsmith.
10 Kumbar—Potmaker.
11 Badagi or Badayi—Carpenter.
12 Agasala or Sonar—Goldsmith who assays the coins of the village.

In the above enumeration *Begars* do not appear. These are permitted to take free of payment the skins of all such unclaimed cattle as may die within the limits of the villages to which they belong (*vide* Government Proceedings No. 1593-601—J. 89, dated 19th July 1893, printed on page 52 of the Revenue Manual). The duties of the above servants are more or less connected with matters of Revenue or Civil Administration pertaining to the village. It is not clear whether the above offices come under "Village Offices" as now defined in the Regulation. It seems desirable to specify all the village offices which are intended to be covered by this definition.

Section 3. Emoluments of Village Officers.

This section provides that the emoluments which is defined in Section 2 as (*a*) lands, (*b*) assignments of revenue payable in respect of land, (*c*) fees in money or agricultural produce, and (*d*) money-salaries and all other kinds of remuneration granted or continued in respect of or annexed to any village office, by the State, shall not be liable to be alienated or encumbered. At present service Inam lands connected with shanbhogi, pateli, toti, etc., are partitioned among the several *hissedars* and enjoyed in shares by them. Such a partition affects the remuneration enjoyable by the actual officiator and causes no small inconvenience in recovering the amount of kandayam especially on the shanbhogi and pateli Inam lands on account of disputes among the hissedars. In some instances, even the potgi amount paid to shanbhogs and patels is divided among the hissedars, though the officiator has the right to enjoy the whole of it. The officiator should have the right and title to the sole enjoyment of all the lands and the potgi attached to his office.

Section 5, clause (1). Punishment of Village Officers.

(1) Section 33 of the Land Revenue Code lays down that no fine inflicted shall in any case exceed two months' pay, and in certain executive orders Government have held that this provision also applies to village officers and directed that the fine inflicted on shanbhogs and patels should not exceed two months' potgi.

I am of opinion that the limit is far too low. The fixing of fine may be left to the discretion of the Deputy Commissioner, but it should not exceed six months' potgi in the case of shanbhogs and patels and shall not be excessive in the case of other village servants.

(2) Under the present standing orders, if a shanbhog or patel be dismissed for reason, serious defalcation or embezzlement of Government money, for levying an illegal cess from the raiyats, or for fraudulent or clandestine enjoyment of Government land, his inam and privileges may be declared forfeited and pass away from his family.

The term "dismissal" as used in this section does not appear to cover such cases. Dismissal should be so defined as to cover the above wholesome provision.

Section 5, clause (3) and Section 7. Powers of Inamdars.

Clause (3) of Section 5 gives power to the proprietor of an alienated village to suspend, dismiss or remove any holder of a village office except patel, shanbhog and village watchman, whereas Section 7 empowers him to fill up the vacancy occurring in the office of patel, shanbhog, nirganti, toti and talari. When he has the power to appoint the shanbhog and patel, it seems incongruous to say that he has no power to punish them.

I am not in favor of giving any of these powers to the proprietor of an Inam village. When the alienated village belongs to a temple and is divided and enjoyed by a number of share-holders according to vritties, it is difficult to make all the vrittidars agree to the appointment of an officiator. Experience shows that the village service in alienated villages is deteriorating on account of factions, and misunderstanding between the Jodidars on the one hand and the village officers on the other. If the powers contemplated are given to the proprietors, I fear more harm than good will accrue and the raiyat population will suffer grievously at their hands. It is also found by experience that the majority of the proprietors are not competent to exercise such powers. I would adhere to the present system according to which the nomination of village officers vests with the Inamdars subject to confirmation by the Deputy Commissioner:—

Section 6, clause (1). General qualifications requisite.

I would add the following disqualifications which would disentitle a person for appointment:—

(*g*) By reason of his suffering from chronic, incurable or infectious disease.

(*h*) By reason of his being a pauper and unable to maintain his position. In Proceedings No. 641-37, dated 17th April 1886, Government have ordered that a pauper cannot be retained in pateli office.

Clause (5) of Section 6 and clause (4) of Section 1.

In appointing gumastas for minors, it is not clear whether, as is now done, their guardians should be consulted. This point should be made clear.

Clause (1), Section 7.

This refers to the disqualifications which disentitle a person to the appointment of patel, etc., in alienated villages. This list is not as exhaustive as that prescribed in Government villages. I would recommend the inclusion of all the disqualifications as enumerated in clause (1), para 6, relating to Government villages.

Section 20.

This section contemplates empowering Superintendent or Assistant Superintendent of Police to punish the village watchmen or Police officers in that area. These latter are now under the immediate control of the Amildar who is also the head of the Police of the taluk. Dual control will not work well and is very much to be deprecated. If there is any dereliction of duty on the part of any village officer, the Police Superintendent can easily get him punished by the Amildar, Assistant Commissioner in charge of the taluk, or the Deputy Commissioner.

I forward herewith the opinions of Assistant Commissioners Messrs (1) C. Rama Rao, (2) K. R. Srinivasiengar (3) V. R. Thyagaraja Iyer and (4) T. K. Sundararajiengar.

Letter No. 265, dated 11th January 1905, from C. Rama Rao, Esq., Assistant Commissioner, in charge of the Chikballapur Sub-Division, to K. P. Puttanna Chetty, Esq., Deputy Commissioner, Kolar District.

With reference to correspondence ending with the Deputy Commissioner's memo No. 1891, dated the 7th instant, calling for the undersigned's opinion on the draft Regulation relating to village offices, has the honor to state as follows:—

Section 2. Definition of Village.

The words "in Government accounts" may be added after the word "village" in the 2nd line. This addition appears to be necessary in order to exclude "Dakala Villages," which are also recognised, locally but not in Government accounts, as villages.

Section 2. Village officer.

It is better to treat patels and shanbhogs only as village *Officers*, the others such as totis, talaris, etc., being designated "village servants."

Rules to be observed in making appointments in alienated *Villages*. The para should be numbered independently as 7. It is now shown as "(7)," that is, as a sub-para to Section 6.

Section 7. Sub-para (1).—

General qualifications of patels, etc., in alienated villages.

Convicted persons and bad characters might also be excluded as in Government villages. *Vide* clauses (*e*) and (*f*), Sub-section (1) to Section 6.

Memo by K. R. Srinivasaiengar, Esq., Assistant Commissioner.

Section 2.

Does the term "Village Office" include that of village lohar, dhobi, barber, etc., who enjoy Inams? I am not sure if they can be brought under the definition given in the Regulation. Can it be said that their duties are connected with matters of Civil Administration pertaining to the village? It is desirable to make the point clear and to specify, as far as possible, all the village offices intended to be covered by the definition.

Sections 3 and 8.

This section provides that the emoluments of village officers shall not be liable to be transferred or encumbered. It is not clear if the prohibition extend also to the partitioning of the emoluments (chiefly lands) among the different hakdars to the office. There are very few instances in which Service Inam lands—pateli, shanbhog, toti, talari etc., are not partitioned among the different hissedars and enjoyed in shares by them. Such partition affects the remuneration enjoyable by the actual officiator and also gives rise, especially in the case of fully assessed pateli and shanbhogi Inam lands, to considerable difficulty in the recovery of the assessment on the lands. I would therefore suggest that the provisions of this section may be extended so that the emoluments of an office, especially pateli and shanbhogi office, shall be solely enjoyed by the officiator and shall not be partitioned among the hissedars.

Sections 6 (5) and 7 (4).

The system of appointing gumastas has been fraught with so many disadvantages and has been such a drag in the efficiency of the pateli and shanbhogi service that it is extremely gratifying to find it forbidden except in the case of minors. In appointing a gumasta to officiate during the minority of a registerdar, the question often rises whether preference should be given to the nominee of the minor's guardian (who will generally be the mother of the minor)

or to the next competant *hakdar* in the family to which the office belongs. It is therefore desirable that the course to be adopted in such cases may be defined.

Section 20.

In places where the powers referred to in this section are delegated to the Police Superintendents or Assistant Superintendents, the patels will be under the dual control of both the Revenue and Police Officers. Such dual control is always undesirable. All punishment, should, I think, be effected through only one agency and not by more than one, each acting independently of and without the knowledge of the other.

Memo by V. R. Thyagaraja Iyer, Esq., Assistant Commissioner, in charge of the Malur Division.

Section 2 (a_1). Village office.

This definition appears to be taken from the Bombay Act III of 1874 and is rather vague. So the Bombay Government and the High Court had to decide if the village offices of carpenter and khazi were village offices within the meaning of the term. I prefer the plan followed in the Madras Act of enumerating the classes of village offices to which the Regulation applies.

(a_2) Deputy Commissioner.

Who is to authorize the Assistant Commissioner to exercise the powers of a Deputy Commissioner? I would omit all the words after "in charge of Division," otherwise a separate notification is necessary under the Regulation investing the Assistant Commissioner with the powers of a Deputy Commissioner.

Section 4.

2. The result of this section is, I take it, that the system of appointing patels for *Majre* or *Dakhala* villages, sanctioned by Government Proceedings No. 10267-75 – R. 1055, dated 3rd January 1894, is abolished. Personally I am in favor of this cancellation, but the point should be made clear, when the Regulation is passed, by an explanatory order.

Section 5.

3. The maximum amount of fine which can be inflicted under Section 33 of the Land Revenue Code on a village officer has been held by Government in certain executive orders, to be two months' potgi. Personally I think that this limit is too low and I would add a clause to this draft section to the effect that notwithstanding anything to the contrary in Section 33, Land Revenue Code, the fine may be fixed at the discretion of the Deputy Commissioner but shall not exceed one year's emoluments in the case of patels and shanbhogs and shall not be exercised in other cases. In Bombay the limit is fixed by Section 57 of the Act at three months' emoluments. In the Madras Act no limit is fixed.

Section 5 (1).

4. I believe the enquiry contemplated in this is an ordinary one (*vide* Section 205, Land Revenue Code, and Rule 101, Land Revenue Rules).

Section 6.

5. This section settles the vexed questions as to whether females are eligible to succeed and as to whether officiator by rotation may be permitted. At present the decisions of Government on these points are conflicting, and I heartily welcome a clear pronouncement on these important questions.

Section 7.

6. Who is the "proprietor" where the alienated village belongs to a temple or is divided into a number of *vrittis*? Supposing in cases where there are several sharers, they

do not agree to the appointment of a specific person as officiator, who is to decide the dispute? such cases are not imaginary and I have before me the case of Jodi Devarayasandra in Mulbagal Taluk, in which there are two factions, one opposed to the patel. This query also applies to clause (4) of Section 5.

I would adhere to the existing system of the approval of the Deputy Commissioner being required in all such cases or follow the Bombay plan (Section 84 of the Act) of giving the powers only in special cases where the holders are fit to exercise such powers.

Section 9 (1) and Section 17.

7. The intention of these sections is, I believe, to prevent the filing of an appeal to Government against an order passed by the Deputy Commissioner under Section 6, the only remedy open to the discontented party being to bring a suit under Section 9. This is how the corresponding provisions are worked in Madras. My only doubt is whether, having regard to Section 210, Land Revenue Code, an appeal against an order under Section 6 can be held not to lie in the absence of an express provision to the contrary. There can be no doubt as to the absolute necessity of disallowing all appeals from orders passed under Section 6 and knocking on the head the present anomalous system (?) under which a suit is often brought in an Assistant Commissioner's Court to set aside the order of Government passed on the miscellaneous side. The point should be placed beyond doubt.

Section 12 (1) III.

8. It seems sufficient to declare that the enquiry must be "formal" as defined in Sections 201 and 202, Land Revenue Code.

Section 12 (2).

9. Is this necessary? and does not Section 196, Land Revenue Code, cover this?

Section 20.

10. I would not empower Superintendents of Police to fine village officers, who must be directly responsible to Revenue officers. I believe this is so in Madras as the latest review of the Police Administration Report will show. If a village officer does not perform in any particular case his Police functions properly, the remedy is for the Police Superintendent to report to the Amildar or Assistant Commissioner.

General remarks.

11. *(a1).* Under the present standing orders, the huk of village officers can be forfeited in certain cases. I do not think that the term "dismissal" as used in Section 5 covers this. This point requires clearing up.

(a 2). Section 9 refers to suits. What is to be the court fee on plaints in such cases? At present it is ten rupees, which, I think, is too high. I would reduce it to eight annas.

(a 3). I would suggest, when the Regulation is passed, that an explanatory order be issued drawing attention to the provisions of the Regulation and to these points where the Regulation does not follow the present practice. I suggest this because I find that even Amildars have not a clear idea of the provisions of the Land Revenue Code and Rules, although these have been in force for some years.

ENCLOSURE.

Letter No. 175, dated 10th November 1904, from T. K. Sundararajiengar, Esq., Treasury Assistant Commissioner, Kolar District, to K. P. Puttanna Chetty, Esq., Deputy Commissioner, Kolar District.

With reference to your docket No. C. 211-213, dated 4th instant, inviting my opinion on the Draft Regulation to amend the law relating to village officers in Mysore, I have the honor to state that under Section 7 the appointment of patel, shanbhogs, nirgantis, totis, talaris in alienated villages are to be made by proprietors of such villages when there is a vacancy in those offices without the previous sanction of the Deputy Commissioner, but under Section 5, Sub-Section (3), the Inamdar may of his own motion or on complaint and after enquiry suspend, dismiss or remove any holder of a village office in his village except the patel, shanbhog and the village watchman or talari for any of the causes specified in Sub-Section (1). The power to punish the latter class of servants in alienated villages is vested in the Deputy Commissioner by Section 5 (1) and not in the proprietor. When the proprietor has power to appoint a class of village officers in his gift, it naturally follows that he has also power to fine, suspend or remove them in cases of their default for sufficient cause. I beg to represent that it is not clearly defined whether the proprietor has power to fine suspend or dismiss, the existing patel, shanbhog, and the village watchman of his own motion or whether he has to report all such cases for orders of the Deputy Commissioner to be dealt with under Section (5 Sub I).

2. Under the above circumstances, I beg to suggest that the rule may be so modified as to allow the proprietor of an Inam village to punish this class of village officers, subject to the approval of the Deputy Commissioner to the extent of period as the Government may by general or special order prescribe. This measure, I hope, will tend to improve the efficiency of village service in alienated villages.

Letter No. 7512—371, dated Bangalore 5—8th May 1905, from P. N. Purnaiya, Esq., B. A., Excise Commissioner in Mysore, to B. K. Venkata Varada Iyengar, Esq., Secretary to the Government of His Highness the Maharaja of Mysore, General and Revenue Department.

With reference to your No. J. 1085-95—Legis. 17-1, dated 3rd November 1904, forwarding for opinion draft of a Regulation to consolidate and amend the law relating to village offices in Mysore, I have the honor to state that the words "Civil Administration" in the clause defining village office require explanation.

It is not clear what offices come under those terms. They cannot include the village-smith, carpenter, barber or washerman whose services are required for the benefit of village community. If they should include any service such as *kerebandi*, the Inam lands of which have been enfranchised, it is not clear why succession should devolve on one at a time under Section 8.

2. Section 6 of the Land Revenue Regulation defines the terms "Deputy Commissioner of the District," and Section 8 specifies the powers of an Assistant Commissioner

in charge of a division of a district. Hence the necessity for defining "District Deputy Commissioner" and "Deputy Commissioner" is not apparent.

Section 4.

3. Section 16 referred to in Sections 4, 6, 12 and 13 relates to the jurisdiction of Civil Courts and not to the powers of the Government, to make rules on certain subjects. The latter are provided for in Section 21.

Section 4 (3).

4. No provision is made for those officers who may be best qualified for service as per rules and yet are thrown out of employ consequent on the exercise by Government of the power of amalgamating villages or of reducing the number of village officers for purpose of administrative necessity, nor is there any provision exempting Government from any liability likely to arise from the claims of thrown-off hereditary village officers not disqualified for service as per rules. These defects require to be provided for.

Section 5 (1).

5. This sub-section empowers the Deputy Commissioner to punish village officers for non-residence in the village. As the residence in a *Bechirakh* village is neither necessary nor possible, the word "Village" may be qualified by a clause "which has a resident population." As regards the punishment of village officers in an alienated village, I would suggest the Deputy Commissioner being required to consult the proprietor thereof before passing his orders under this sub-section.

Section 5 (3).

6. Under this sub-section the proprietor of an alienated village is excluded from punishing his patel, shanbhog and watchman, but I see no sufficient reason for this exclusion. He may be safely entrusted with the exercise of the Deputy Commissioner's power under sub-section 1 subject to appeal to the Deputy Commissioner.

Sections 6 and 7.

7. These sections, which regulate appointments to the offices of patel, shanbhog, nirganti, toti and talari, totally exclude the female sex. I see no reason for this total exclusion as there have been successful cases of women acting as patel, toti and talari.

Section 3.

8. It is necessary to indicate what village offices other than those of patel, shanbhog, nirganti, toti or talari are governed by this section.

Section 20.

9. In this section the expressions "Village watchmen or Police officers" are made use of. The words "Village watchman" appear also in Sub-Section (3) of Section 5. Are these officers different from "Talari"? If they are not, the word "Talari" may be substituted for "Watchmen or Police officers" and "Watchman." If they are different, Sections 5, 6 and 7 require to be amended.

Letter No. 147, dated 8—11th May 1905, from M. Chengiah Chetty, Esq., B. A., Offg. Deputy Commissioner, Chitaldrug District, to B. K. Venkata Varada Iyengar, Esq., Secretary to the Government of His Highness the Maharaja of Mysore, General and Revenue Department.

Adverting to your letter No. J. 1085-95—Legis. 17-1, dated 3rd November last, calling for an expression of opinion on the Draft of a Regulation to consolidate and amend the law relating to the village officers in Mysore, I have the honor to state that I have carefully gone through the provisions embodied in the Draft Regulation and perused

the opinions of the Assistant Commissioners, and some of the experienced Amildars in the district, who were also consulted on the subject, and to submit the following suggestions for the consideration of Government.

Section 2.

The distinction drawn between the "District Deputy Commissioner" and the Deputy Commissioner is confusing and seems unnecessary as such a distinction has not been made in the Land Revenue Code which is the basis in all matters of Revenue Administration. It is considered that any limitation of general terms for the purposes of a special law is more apt to be lost sight of than conveniently remembered. The definitions of 'Deputy Commissioner' and 'Assistant Commissioners in charge of taluks' as embodied in the Revenue Code would seem to meet all requirements.

Section 4.

This section does not make any provision for the hakdars that may be deprived of their hak by the grouping of two or more villages into one and selecting the best of them for appointment from among the families of the last holders of offices thus ceased to exist. If the village offices of such amalgamated or grouped villages are ordered to cease to exist, it would be a great hardship on the old village officers concerned if they are deprived of their emoluments and status. It seems therefore advisable that all village offices in the villages so clubbed together may, as usual, be permitted to look after their duties within the limits of their old villages and enjoy their emoluments as is done in the case of large villages with a number of hamlets attached thereto where separate patels have been doing their work in several hamlets attached to the asli villages, the potgi amount fixed for the whole village being distributed among the patels of such hamlets. The other minor village servants such as "Totis" and "Talaris" also get their miras in their own hamlets. The large villages of Siddavvanahalli and Turuvanur in the Chitaldrug Taluk may be quoted as instances of the kind.

There will be no difficulty in the case of a shanbhog in respect of his emoluments when villages forming his own circle are amalgamated into one, but he will have to suffer when the villages belonging to his circle are clubbed together with the villages of another circle. Regard will have to be had to this point in the grouping of several villages, otherwise provision will have to be made to compensate the loss in remuneration.

Another clause may advantageously be added on to this section to empower the Government to create new village offices if necessary, as in the case of new villages springing up or deteriorated villages growing into importance on account of railway communication, trade, construction of new tanks, establishment of industries, etc.

Section 5, clause (1).

Clause (b) of para 5 of Rule XLIII of the old Land Revenue Rules of 1890, which has still the force of law, defines the nature of criminal offences entailing the forfeiture of village officer's hak to the detriment of the heirs of the convicted village servant. A similar provision may also be made in the present Regulation.

Section 5, clause (2)

The Amildars and Deputy Amildars being the Heads of Police in their respective jurisdictions should have power to punish with fine, the patel and village watchman of an alienated village also in cases of misconduct or neglect of Police duties.

Section 6, clause (2).

The succession to office is directed to be regulated according to the provisions of the Hindu Law, though there are a few instances of Mahomedans and of European planters being patels of villages. Such a provision, it is presumed, has been made to avoid complications if the law governing the nationality to which they belong is made applicable to them in this respect.

Section 6, clause (3).

It is not unlikely that there would be some instances where the rightful persons entitled to succeed to village office under the provisions of this Regulation, being deprived of their rights for want of all the qualifications enumerated in Sub-Section (1) at the time of filling up the vacancy, although they may become fully qualified subsequently, if the appointment of any other person in such cases is not made subject to their getting back the appointment, should they become duly qualified within a specified period. The rule may be modified accordingly.

Section 6, clause (5).

There is no specific provision for consulting the wishes of the minor's guardian nor for the election of a near relation as gumasta, should he be duly qualified for it. The interests of issueless widows and the sons they may adopt in accordance with law have been altogether lost sight of. These cases are deserving of consideration. I therefore propose the continuance of the standing orders now in force on the subject.

Section 7.

The remarks made under Section 6 are also applicable to alienated villages in respect of devolution of succession to the village offices in unalienated villages. In the case of several alienated villages, there are several vrittidars who are all proprietors of the village. Experience has shown that owing to misunderstandings among them, village officers are not at all appointed for several months or years; and in some cases, more than one is appointed as it suits the whims of the vrittidars. The best course seems to be to empower Deputy Commissioners to appoint qualified persons as patels for Police and sanitary duties in all alienated villages irrespective of the patels appointed by the inamdars for their Revenue work. I lay stress upon this provision being made in the interest of the raiyats of the alienated villages. Should the patels appointed by the Inamdar be found qualified in every respect, the Deputy Commissioner will recognise him as patel for Police and other functions; if not, he will appoint another without consulting the Inamdar or vrittidars. This, I think, will be a wholesome provision. It would also be a very desirable provision to retain the powers of confirmation or appeal in the Deputy Commissioner in cases of appointment of village servants made by the proprietors of alienated villages. Absence of some such specific provision might cause administrative inconvenience.

Section 9, clause (1), proviso 1.

The mere fact that a person obtains a declaratory decree will not entitle him to succeed to the office immediately, but such decrees will be of great help in determining the hakdars to an office in doubtful cases, and thus I see no necessity for the proviso in question.

Section 9, clause (1), proviso 2.

The interference of Civil Courts is not necessary and the Deputy Commissioner should be empowered to decide the question, such lands having all along been recognized as being outside the jurisdiction of Civil Courts and as being impartible and unalienable from the offices to which they are attached.

Section 9, clause (2).

If the claimant is considered ineligible for appointment for want of educational qualification or on account of any temporary physical or mental disqualification, the suit may be proceeded with and final orders passed, so that it might be useful to him or his heirs at any future time.

Section10, clause (3).

It is learnt that there are certain decrees in force in this district which allow the duties pertaining to a village office, especially of patels, being performed by different hakdars in turns. In such cases, the period of time for making applications for their execution will have to run from the date of commencement of the period of such turns.

Section 16.

As elsewhere stated, there is no need for the jurisdiction of Civil Courts in the matter of village offices or of emoluments attached thereto and the decision of the Revenue authorities may be made final.

Section 20.

The provision made under this section seems unnecessary as the Deputy Commissioner is the head of the District Police in whom the powers of punishing the village officers are vested by the Regulation and whose orders may easily be obtained by the District Police Officers in the matter of punishment to village officers.

In conclusion, I beg to state that the potgi amounts attached to pateli and shanbhogi offices in many cases in this district being very small, it would be difficult to procure competent men for those offices in case the hakdars fail or do not care to perform the duties of their offices, unless the potgi amounts are revised and fixed at sums sufficiently liberal to attract qualified men, which means additional expenditure to Government. And I am, therefore, of opinion that it is desirable to allow some latitude in the case of claimants in direct line of succession which is recognized and in vogue from time immemorial as they attach very great importance to the hereditary hak and work cheerfully and willingly in spite of insufficient remuneration.

Letter No. 2446, dated Bangalore, 5th September 1905, from T. Ananda Rao, Esq., B. A., Revenue Commissioner in Mysore, to the Secretary to the Government of His Highness the Maharaja of Mysore, General and Revenue Department.

I beg to submit as follows in reply to your letter No. J. 1085, dated 3rd November last, calling for my opinion on the proposed Draft Regulation to consolidate and amend the law relating to village officers in Mysore, and to apologise for the delay in submitting the same due to pressure of current work.

2. The tendency of the proposed Regulation is to attach less preference to heredity than has been allowed in Mysore in the past, and is apparently allowed in Bombay under Act 3 of 1874. And one cannot help thinking that where village offices become stipendiary, a certain measure of heartlessness and want of sympathy pervades village service to the detriment of the welfare of village communities. The proposed draft, however, is moderate in this respect and is calculated to promote efficiency among the men with a due regard at the time of their selection to their relationship to past office-holders.

3. There seem to be some penslips in the Draft Regulation, which require correction, such as—

(*a*) 'Section 16' for 'Section 21' in Sections 4, 6, 12;
(*b*) '(7), for '7' in numbering Section 7;
(*c*) A paranthesis in 6 (3).

4. In Section 2 the word 'village' has been given an unusual meaning, which is unnecessary and which read along with Section 4 may in some cases be even embarrassing. For example, take four villages A, B, C and D which are separate units of area for Revenue purposes, all four being in charge of one shanbhog, and each having a separate patel for itself. As the definition stands in the Draft Regulation A, B, C and D (some of which may not be contiguous) will be a single 'village' when talking about the shanbhogi, will be four 'villages' when talking of patels, and so on. It is therefore desirable that in this and in all other Regulations the term 'village' should denote the unit of area constituted as a village for Revenue purposes.

5. It may be declared in a suitable place and in suitable terms that as a rule a single village shall constitute the village officer's charge. When a village has to be divided or when two or more villages have to be combined together for a charge it is better to call it a 'Charge' for the purposes of this Regulation than to designate it as a 'Village' as has been done in Section 4 (1) of the Draft.

6. In Section 2 the term 'District Deputy Commissioner' as contrasted with 'Deputy Commissioner' looks awkward though it may have its analogy in Madras Acts. In the body of the Draft this term occurs in the following sections:—

Section 11, in one place.
,, 14 (2), in two places.
,, 17, in three places.
,, 18, in two places.

The requirements of the provisions of these sections will be sufficiently met by using the word 'District Officer' instead, and by declaring as usual that the term Deputy Commissioner includes Assistant Commissioner in charge of a division of district unless a contrary meaning is manifest in the context. By this or by some better means that Legislative Draughtsmen can devise, the awkward term under reference may be eliminated.

7. It often happens that local residence is impracticable or unnecessary for efficient performance of duty. A Mahomedan or christian village and its Brahmin shanbhog, a 'Bechirakh' or 'Nalahanta' village and its patel or shanbhog are examples. In view of such cases, and the word 'charges' being adopted as above suggested in para 5, it may be better to say in section 5 of the Draft 'non-residence within the limits of his charge where such residence is considered necessary' instead of 'non-residence in the village.'

8. For the purposes of Section 5 (3) and other provisions of the Draft where the term 'Proprietor of an alienated village' is employed, it seems desirable to declare who shall be regarded as 'the proprietor' where more than one person exist as such, as for example in Jodi villages held in shares, etc.

9. Section 6 of the Draft prescribes the qualifications for holders of village offices in sirkar villages, and Section 17 prescribes them for alienated villages. Comparing one with the other, it appears that the qualifications (*d*), (*e*) and

(*f*) of Section 6 are omitted in Section 7. I fail to see the reason for this. About 12 per cent of the entire number of villages in the State are alienated villages containing about 9·5 per cent of the entire population; and in view of the co-operation required from village officers in alienated tracts in various administrative matters, Revenue, Police, Sanitary, etc., it seems desirable to secure and maintain among them as much efficiency as among village officers of Sirkar villages.

10. The same remark applies also to the provisions of Section 6 (4) temporarily disqualifying the heir of the last holder in certain cases, and Section 6 (6) relating to the same contingency.

11. So also in regard to Section 6 (5), as to which the difference between it and the corresponding provision in Section 7 [*viz.*, 7 (4)] consists in the omission in the latter of the allowance made in the former of a term of three years after attaining majority to qualify himself under Section 6 (1). This allowance may be unnecessary as the Draft Regulation stands. But if the qualifications mentioned under heads (*d*), (*e*) and (*f*) in Section 6 be repeated in Section 7, as proposed in para 9 of this letter, it seems desirable to make this allowance also for cases in alienated villages.

12. In short, I would assimilate the village services in alienated villages to those in Sirkar villages, the respective proprietors making the appointment in the former case instead of Deputy Commissioners in the latter. And I would suggest a provision whereby proprietors of alienated villages will periodically furnish the Amildar of the taluk with nominal rolls of their village officers, and with intimation from time to time of changes made therein so that the lists may be maintained in the Taluk Cutcherry up to date.

13. I take it that under Section 6 of the Draft Regulation the practice of registering widows as 'Baravarddars' in the place of holders deceased divided in interest from the other members of the family, will cease. I consider this to be too great an innovation in present conditions of Hindu society, and I would allow the widow to be registered, and given a maintenance allowance to be fixed by the Deputy Commissioner at a rate not exceeding one-third of the 'Potgi' and payable direct from the treasury during her life-time. An officiator can be appointed by the Deputy Commissioner himself to hold office during good behaviour and efficient performance of duties, and not during the good-will of the registered 'Baravarddar.' The officiator will be entitled to the remaining two-thirds of the 'Potgi.' It may be provided that the selection of the officiator shall be made as far as possible or convenient as indicated in Section 6 (3).

14. In accordance with the view submitted in para 5 of this letter, matter No. I mentioned in Section 21 of the Regulation as one of those in regard to which rules may be made and notified by Government, should read thus:—

"The constitution, division or grouping of villages as village officer's charges."

15. It is worth considering whether some of the provisions contained in Sections 5 to 14 (both inclusive) of Bombay Act 3 of 1874 [as printed in the Bombay Code, 2nd Edition (1896)] may not be introduced into the Draft Regulation under consideration, such as those relating to

the combination of village offices (Section 14), and to the Deputy Commissioner taking steps to conserve the property of the village office or to cancel the alienation of such property (Sections 6 and 9), etc.

16. I take the liberty of submitting herewith copy of a note on the subject under consideration drawn up by Mr. G. Aravamudaiengar, Assistant Commissioner, attached to this office which presents some aspects worthy of consideration.

ENCLOSURE.

Note by the Assistant Commissioner attached to the Revenue Commissioner's Office.

The present Draft Regulation is based upon the Madras Act III of 1895 and reproduces the Act with a few unimportant changes. The tendency under the Madras Act is to render the offices stipendiary with perhaps a preference shown to heredity. The introduction of a sex restriction and of an educational test, the large discretion vested in the Deputy Commissioner to go out of the family in the choice of a person properly qualified, the absence of provision for the appointment of deputies at the instance of a disqualified heir or his guardian, to the office, the finality of orders vesting the office at the time the succession opens, and the absence of provision for the maintenance of a 'hakdari' register both as regards the collateral branches of a family in office, and the families deprived of office owing to the amalgamation of smaller villages into a single unit, would tend to introduce strangers of the more literary castes, into the village offices, especially so in the case of the important office of patel, and these, devoid of local influence and interest and without property qualifications, would be merely stipendiary officers. I have observed this tendency in Madras (Tanjore) both in the appointments made and the opinions held by the officers responsible for such appointments and the old village communities are fast disappearing under such a treatment. There has been a great deal of discussion regarding the comparative usefulness and advantage of having stipendiary village officers as opposed to hereditary officers, but the balance of advantage appears to be with the latter, both as regards the prestige and influence commanded by them with the villagers and their reliability as recipients of Government revenue. The fear of losing the office from the family would keep them honest and straight, a sentiment not always present in persons who happen to be newly appointed to the offices. Again, the deference and respect shown by the villagers to the patels and shanbhogs is not merely what is due to the offices but it is in a great way inherited and accepted as due from them to the representative of the families who have for generations held these offices and been their leaders.

2. Further, apart from the violent nature of the changes proposed in the traditions of these offices, there are certain circumstances and local conditions which appear to indicate the changes as unsuitable. In Mysore the emoluments attached to these offices are more in the nature of 'honoraria' and are far less than what they should be if they are to be regarded as subsistence allowances. It is particularly so in the case of patels who receive on the average about Rs. 16, while actually cases are not absent where the patels receive a paltry sum of Rs. 3 or 4 per annum as remuneration. Out of this sum the patels have

in practice to meet certain incidental calls, in virtue of the office they hold, which need not be specified here.

3. If the remuneration is to represent in any sense a subsistence allowance, the percentage fee now allowed has to be increased largely, which would result in the substantial increase of the cost of collection, or the villages have to be grouped together, which would tend to make the Police and Civil Administration of the village far from efficient, or as in Madras an extra cess has to be levied (*vide* Act IV of 1893). I am perhaps going beside the point of the present reference. I wished only to invite attention to the importance of this aspect of the question.

4. Coming to the Draft Regulation, I beg to offer a few remarks for consideration.

Section 2. 'Village Office.'

The definition is partly taken from Madras and partly from the Bombay Acts, but differs materially from both. The reason is not apparent why the word 'hereditary' is dropped both here and in the title of the Regulation (Cf. Madras Act III of 1895). Would the definition include the village hereditary artisans (local barabaluti service)? Would the definition bring under the operation of the Act, old offices no longer in working order, such as desakulkarni, nadig, muktesar, patel, etc?

Emoluments.

For clause (iii), it may be advantageous for obvious reasons to adopt the Bombay phraseology, *viz.*, 'Customary fees or perquisites in money or land whether at fixed times or otherwise.

District Deputy Commissioner.'

The term 'District Deputy Commissioner' is somewhat cumbrous and is further unknown to the Land Revenue Code.

Section (3).

The clause 'whether such offices be or be not hereditary' appears to be unnecessary and misleading and may be dropped. Under Sections 6 and 8 the devolution of all the offices within the operation of the Act is declared to be hereditary, in the first instance at all events. Does the incedence of inalienability also attach to lands originally service Inam but no longer in the possession or enjoyment of the office-holders or the members of his family?

Section 4, Clause (1).

At present the Revenue Commissioner is exercising this power in consultation with the Survey Commissioner.

Clause (2).

Is the choice to be confined to families which at one time or other held office in the village itself? If persons from distant villages who may have been dispossessed of their offices are also eligible for choice, they would lack local interest, family influence and property qualifications.

Section 5, Clause (1).

The Draft Regulation gives the Deputy Commissioners plenary powers to punish even minor village servants in alienated villages. It would perhaps be better to introduce a proviso like the one contained in Section 9 of the Madras Act as it would otherwise lead to interference in the internal administration of the Inam villages, which the Government are anxious to avoid.

Clause (3).

The term proprietor is not defined and is not known to the Land Revenue Code. Does it include a 'mortgagee with possession'? The word 'holder' may be substituted for it.

Section 6, Clause (1).

It is a question for consideration whether the exclusion of an officer's widow and daughter would not be too violent a change from the present traditions and the customary devolution of the office. Should there not be also some property qualification for at least the patel who

collects the revenue and is responsible both to the Government and the raiyats for the money in his custody. At present persons without lands or other tangible property in the village are seldom or never appointed as patels.

Clause (2). What is the law to be applied in the case of officers who are not Hindus? I know instances where Mahomedans are patels of villages and there is no reason why a Christian should not become one.

Clause (3). If an educational test is insisted upon in every case, it may not seldom happen that the office should have to go seeking out of the family. Education has not filtered yet into the villages in the interior, remote from commercial or taluk centres. How about a posthumous son, or a son subsequently adopted? Will the office once vested be devested for the benefit of such a son.

Clause (5). At present the minor or his guardian has a voice in the choice of his deputy and by a private arrangement the minor participates to some extent in the emoluments. It may be inexpedient to appoint a totally unsympathetic deputy and leave the minor to his own resources for his education and maintenance.

Section 7, Clause (1). It is noticeable that the educational and character tests are omitted in this case and the reason is not apparent. The holder being directly responsible to Government for the revenue, property qualification is not perhaps quite so important.

It is noticeable that clauses parallel to 4 and 5 of Section 6 are not repeated. What is the procedure to be adopted in the choice of incumbents when the office-holders are punished with dismissal or suspension under Section 5.

Section 9, Clause (1). Does a suit lie for the recovery of emoluments only, separate from a claim for the succession to the office.

Clause (1), Sub-clause (ii). The meaning is not clear. In Mysore the recognised remuneration is in the shape of cash payment and it can hardly be called 'assignment of revenue payable in respect of land.' Does the provision debar the prosecution of a claim in the Revenue Courts to the possession of service Inam lands which under the Potgi Rules are assessed.

Section 9, Clause (2). In deciding a plea of disqualification of a person on account of bad character, would the Deputy Commissioner be required to take evidence as to general repute or particular instances of bad character. In either case a mass of irrelevant and extraneous matters would be brought in. It would also lead to hardship if such evidence is admissible in suits for the recovery of emoluments only, where the succession to the office has been already recognised.

Section 10, Clause (1). The limitation of three years is sought to be applied retrospectively which may in certain instances result in hardship.

Section 11. An Assistant Commissioner not in charge of a Division is not a Deputy Commissioner under the definition adopted in the Regulation. Does the mere transfer to his file of a case under Section 11 give him jurisdiction to dispose of the case which the Regulation does not confer upon him?

Section 16. The application of the proviso to this section is not apparent. This would virtually leave to the Civil Courts the power to determine which offices are village offices and which are not. Can new offices remunerated by 'miras' only be created in villages, such as totis and talaris in malnad, where they do not now exist?

Section 17.

At present appeals from the 'District Deputy Commissioner' in the class of cases falling under Section 5 lie to the Revenue Commissioner and they would under this Section go to Government.

Section 18.

Also omits mention of the Revenue Commissioner.

Before concluding this note I wish to point out that the Hereditary Offices Act of Bombay (Act III of 1874) more nearly represents the traditions, standing orders and the practice so far as the preservation of the office and its emoluments hereditarily in a family is concerned. The following provisions of that Act may perhaps be advantageously introduced with suitable changes in the Draft Regulation. The provisions in question refer to—

(1) The power vested in the District Officer to take steps to conserve the properties and the emoluments of an office, *vide* Sections 6, 9, 12, etc., of the Act;

(2) The power to appoint a panchayet to determine the rights and duties of the minor village servants, *vide* Sections 18 and 19;

(3) The power granted to office-holders to nominate efficient deputies under certain circumstances, *vide* Chapter VIII.

(4)

THE MYSORE LEGISLATIVE COUNCIL
No. 11
LC(7-07)
17-8-07

General & Rev Secretariat
Bangalore
Dated 17th August 1907

17.8.07

VIII

To

K. Mylar Rao Esqr B.A. V.L.
Secretary to the Mysore Legislative Council.

SIR,

Please take notice that I intend making a motion that the following bills for the introduction of which leave was granted at the meeting of the Council held on the 14th July last be read at the meeting of the Mysore Legislative Council to be held on Wednesday the 28th of August 1907.

I have the honor to be,
Sir,
Your most obedient servant,

P. Manishar
Ex-officio Member, Mysore Legislative Council.

17/8/07

1) The Village offices bill
2) The bill to amend the Court fees Regulation III of 89

SUPPLEMENT TO

The Mysore Gazette

PUBLISHED BY AUTHORITY.

BANGALORE, THURSDAY, AUGUST 29, 1907.

Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Council Chamber, Public Offices, at 3 P.M. on Wednesday, the 28th August 1907.

PRESENT.

V. P. MADHAVA RAO, ESQ., C.I.E., Dewan (Presiding).

Ex-officio Members.

T. ANANDA RAO, ESQ., B.A., (First Councillor).
K. P. PUTTANNA CHETTY, ESQ., (Second Councillor).

Additional Members.

Official.

A. RANGASWAMI IYENGAR, ESQ., B.A., B.L.
H. J. BHABHA, ESQ., M.A.
RAO BAHADUR M. MUTHANNA, ESQ.
M. KANTHARAJ URS, ESQ., B.A.
S. NARAYANA RAO, ESQ.

Non-official.

V. N. NARASIMMIYENGAR, ESQ.
M. C. RANGIENGAR, ESQ., B.A.
B. NAGAPPA, ESQ., (Bar.-at-law).
SYED AMIR HASSAN, ESQ.

ABSENT.

Non-official.

RAJAMANTRA PRAVINA C. SREENIVASIENGAR, ESQ.

K. MYLAR RAO, ESQ., B.A., B.L. (Secretary).

DEWAN :—

Mr. C. Sreenivasaiengar has sent a letter regretting his inability to attend this meeting. He states that he generally approves of the principles of the bills, but that he has got certain amendments to propose, which he will do in due course.

The Secretary reported for the orders of the Council the representations received from Mr. Hema Hanumanthaiya, retired Assistant Commissioner, Mr. S. R. Balakrishna Rao, Advocate, Patel Subbaroyappa and Lakshminarasimhachar. The first two were reserved for consideration, and the other two were filed as they did not relate to any matter actually under the consideration of the Council.

Mr. Narasimmaiengar presented a petition received by him from certain raiyats of the Devanhalli Taluk and observed that it was a protest against the Village Offices Bill.

Bill to amend the Stamp Regulation, II of 1900.

MR. A. RANGASWAMI IYENGAR :—

SIR,

I rise to move for permission to introduce a bill further to amend the Regulation No. II of 1900, relating to Stamps. That Regulation itself was passed on the lines of the Indian Stamp Act of 1899 in amendment of the previous Act I of 1879 which was in force in the Province. Since then the Indian Stamp Act of 1899 has been modified considerably by Acts VI of 1900, XI of 1904 and V of 1906. In the amendment Regulation now proposed are embodied all the changes introduced by these three amendment acts.

These changes have been arranged in ten clauses. Of these that which deserves to be mentioned first is clause No. 7 relating to the alteration of clause (1) (*b*) of Section 40 of Regulation II of 1900. This latter clause gives no discretion to the Deputy Commissioner to levy a penalty of less than ten times the amount of the proper stamp duty or of the difference between it and the stamp affixed on the instrument, where such amount is in excess of Rs. 5, even when he considers that it would be a hardship to enforce the full penalty. The hardship caused by this was brought to notice at the last meeting of the Representative Assembly. It is proposed to remedy this by inserting the words "an amount not exceeding" before the words "ten times the amount" in the said sub-section. This amendment has already been made by Act IV of 1904 in the Indian Stamp Act 1899.

The next in order of importance is clause 4 proposing a modification of the first proviso in Section 26 of the Regulation II of 1900. Under the existing proviso, the tendency is to levy stamp duty on Mining leases granted by Government where the value of the share or royalty is indeterminate, on an assumed valuation of Rs. 20,000 a year. This is considered unsuitable and hard in the case of small and unproductive mines. It is proposed to remedy this by providing that where a Mining lease is granted by the Government, the stamp duty leviable thereon will be according to the estimate, to be made by the Deputy Commissioner, of the amount of royalty payable. Clause 9 provides for the revision of the Deputy Commissioner's decision in such cases by the Chief Controlling Revenue Authority.

Another modification of some importance is made by clauses 1 (*a*) and (3). The former clause defines the expression "Marketable security." This definition is necessary in connection with the new Section 23*A* proposed in clause 3 providing for the levy of a fixed fee of 8 annas only instead of the fees prescribed in article 6 of Schedule I, when the security deposited by way of equitable mortgage is marketable.

Clause 10 (1) is also of some importance. There appears to be some doubt as to whether pawns and pledges come under article 6 of Schedule I. Other defects and anomalies noticed in the same connection are—

(*a*) want of provision therein for the case where an equitable mortgage is executed to secure the repayment of a loan after more than one year;

or (*b*) for the case where the advance secured is repayable on demand.

It is proposed in clause 10 (1) to omit the term "equitable mortgage" and amplify the article so as to define more clearly the nature of the transaction intended to be covered. Pawns and pledges are specifically mentioned and the reference to 'hypothecation' has been omitted; thus all transactions of the nature of hypothecation, *i.e.*, where movable property is simply appropriated by way of security for the discharge of a debt or engagement without parting with its possession are outside the scope of the article. It is proposed to impose the same duty on a document securing repayment after more than one year as that on a document securing repayment within one year; and documents securing repayments on demand are to be liable to the same duty as that on documents securing repayments after more than three months.

[*Mr. A. Rangaswami Iyengar; Mr. T. Ananda Rao.*]

Finally it is proposed to place all documents, whether their execution is or is not simultaneous with the advances secured by them, on the same footing.

Clauses 5 (*b*), 6 & 10 (7) relate to the duty on fire and marine insurance policies and have been introduced, though not likely to be required for use in the State, in order to bring the provisions of our Stamp law in line with those of the British Indian Act.

The following clauses also propose minor changes of some practical use :—

Clause 1 (*c*).—It suggests an addition to the definition of 'Settlement' with the object of preventing the evasion of stamp duty imposed on settlements which it is now possible to effect by the simple expedient of first making an oral disposition of the property to be settled and then recording the terms of the disposition in a declaration of trust in which the Settler and the Trustees join. Such an instrument is only chargeable with a stamp duty of Rs. 15 under Article 62 instead of with the heavier duty imposed by Article 56. The proposed addition to the definition will have the effect of requiring such instruments in future to be stamped as Settlements.

Clause 10 (5).—Stamp duties on certain mortgages of crops are reduced from four annas to two annas.

Clause 8.—Admits private banking firms to the benefit allowed by Section 51 of the Regulation in regard to the refund of the value of unused stamp papers.

It is unnecessary to refer to the remaining clauses as they are either unimportant or have been framed to carry out the amendments and alterations necessitated in the Act and the first Schedule by the amendments referrred to in the preceding paras.

MR. S. NARAYANA RAO seconded the motion, and it was put to the Council and carried.

The Village Offices Bill.

MR. T. ANANDA RAO :—

SIR,

Under Rule 33 of the Rules for the conduct of business, I beg to move that the bill to consolidate and amend the law relating to Village Offices in Mysore be read in Council. The bill has been printed and published in the *Mysore Gazette*, and copies have been furnished to the Members of this Council. The bill is accompanied by a Statement of Objects and Reasons. By a study of them, I have no doubt that Members have realized to themselves what I stated the other day in regard to the principles and scope of the proposed measure. It does not appear that notices of any amendments have been given. But it is not to be inferred from this that the bill is beyond criticism and incapable of improvement. Probably, proposals in this behalf have been reserved for the Committee stage of the bill. And speaking for myself I can say that this is the case. For example, on an examination of clauses 5, 6, and 7 of the bill, it will be found that the principal Village Officers, Patel, Shanbhog, Nirganti, Toti and Talari in alienated villages are, in respect of qualifications for office and discipline in office, placed on a somewhat different footing to that of their brother officers in Sirkar villages, the difference being, in my opinion, to the prejudice or in disparagement of the proprietors of alienated villages. Seeing how badly village accounts are kept, how badly also revenue is collected and accounted for to the raiyat and to the proprietor in an alienated village, I would like to see these proprietors possess facilities for better control over their village servants than is given in the bill. I reserve proposals in this behalf for the Committee stage. For another example, the representation from Mr. Hema Hanumanthaiya, retired Assistant Commissioner, which has been just presented to Council, is an interesting document making some suggestions worthy of being examined by a Select Committee on this bill. I may here refer to what he says regarding the necessity for registering the sonless widow in some cases as the holder of an office, and allowing her to appoint a substitute with reservation to herself of one-quarter of the salary of the office. It may be that the deceased husband obtained the office in the course of a partition of family property in which the office was reckoned as an asset; and in that case, it would indeed be a hardship to her to be deprived altogether of the emoluments of the office, and thereby perhaps the means of livelihood, upon the death of her husband without a son to take his place. It will be for the Select Committee first, and for this Council next, to consider how her requirements can be reconciled with those of the public service. Under such circumstances, I move that the bill may be read in Council, and that the Council may be pleased to appoint a Select Committee under Rule 33, clause 2, to consider and report on the bill.

[*Mr. Rangiengar; Mr. A. Rangaswami Iyengar; Mr. T. Ananda Rao; Dewan; Mr. K. P. Puttanna Chetty.*]

MR. RANGIENGAR:—

I heartily second the motion just now made by the First Councillor. The principles of the bill seem to have been discussed almost thread-bare by high officers of Government. There may be little to add to what has already been urged on behalf of the amendment of the bill; but owing to various reasons, as pointed out by the mover himself, the bill should go before a Select Committee and discussed in detail section by section. I submit that the bill may be referred to a Select Committee.

MR. A. RANGASWAMI IYENGAR:—

With your permission I will make one or two remarks on this occasion. There are a number of amendments which I shall reserve for the Select Committee stage. But on one principle I wish to dwell before the bill is referred to the Select Committee. The provisions of the bill are calculated to impair the hereditary nature of the appointments. I think the Council will do well to examine that point before referring it to the Committee as it stands, or if the Council will express their opinion on that point, it will enable the Select Committee to modify the provisions in conformity with that view, in their discussions. The appointments have been held to be hereditary for a long time, and the remuneration paid to these officials is so small that but for their hereditary character, it would have been impossible for the Government to have secured their services for so long. And this is important for another reason. If we want to promote the corporate nature of the village community and give certain powers of management to them, the Village Officers will be a very important element of that corporate body, and unless steps are taken to make the offices continue in the same family, it is not likely that the officials holding these appointments will command the necessary influence. It is very good to have educational and other qualifications, but these will not at all supply what is most wanted in these offices and that is, the influence which the hereditary character of the office and long residence in a village carry with them. I think, therefore, I am justified in proposing this point for the consideration of the Council at this stage. The rules framed are, I fear, calculated to disturb the hereditary nature of the appointments. No doubt, discretion is given to the Deputy Commissioners to select out of the family, but once there is none in this family who is qualified, the appointment may go out of the family altogether.

MR. T. ANANDA RAO:—

That point was not unnoticed. I said we were going to respect all the traditions of the appointments subject to what is essential for improving the service.

DEWAN:—

I do not think there is any idea of departing from the principle we have all along recognised in making the appointments. The hereditary principle is fully recognised and will be departed from only when it conflicts with the fitness of the individual, and even then the office will not be taken away from the family altogether.

The motion was put to the Council and carried, and the bill referred to a Select Committee consisting of Messrs. T. Ananda Rao, A. Rangaswami Iyengar, V. N. Narasimmiyengar, M. Kantharaj Urs and M. C. Rangiengar, for report before the 28th November 1907.

The Police Bill.

MR. K. P. PUTTANNA CHETTY:—

I have already explained in my opening speech the main principles of the bill. I shall only take up certain objections brought forward in the public press against the measure.

Two kinds of objections have been raised with reference to the Bill. The first objection is directed against the continuance of the Police powers of the Amildar and the Deputy Commissioner; while the second objection, approving of this arrangement, finds fault with the bill because it is thought that it ignores the principle of the separation of the executive and judicial functions. As regards the first objection, I have dwelt sufficiently at the last meeting

[*Mr. K. P. Puttanna Chetty; Mr. T. Ananda Rao; Mr. B. Nagappa.*]

upon the advantages accruing from the exercise of control over the Police officers by the Amildar and the Deputy Commissioner, and it is not perhaps necessary to say more on the point. I may, however, point out that the bill merely defines the existing state of things and that, where it deviates from the present system, it gives more liberty of action to the Police officers than they at present enjoy. The bill merely continues the Police powers of Amildars and Deputy Commissioners which they have been enjoying for a long time. The existing system does not appear to have caused any inconvenience or injustice. Therefore it rests on those who object to the present system to make out a case for divesting these executive officers of their Police functions. There is nothing objectionable in principle in investing the chief executive officers of the taluk and district, respectively, with the executive powers of Police officers.

The objection that the bill perpetuates the combination of executive and judicial functions is based on a misapprehension of the scope and objects of the bill. It is enough to dispose of this objection to say that there is nothing either in the bill or in my speech in introducing it to justify the assumption that the combination of the executive and judicial functions is extolled or extenuated. The question is a large and difficult one; it requires consideration from various aspects. And we cannot very well deal with the question in a bill which has for its subject-matter the organization and discipline of the Police force. In this bill, what we are concerned with is, whether it is not advantageous to continue the Police powers of the executive officers referred to. In this connection I see no advantage in discussing the wholly different question of the separation of executive and judicial functions. I may, however, say that the subject is engaging the attention of Government.

With these remarks I beg to move that the bill be read in Council.

MR. B. NAGAPPA seconded the motion and said that he was in agreement with the general principles of the bill.

The motion was put to the Council and carried, and the Bill referred to a Select Committee consisting of Messrs. K. P. Puttanna Chetty, V. N. Narasimmiyengar, M. C. Rangiengar and B. Nagappa for report before the 28th November 1907.

Bill to amend the Court Fees Regulation, III of 1900.

MR. T. ANANDA RAO :—

SIR,

The prescribed formalities having been fulfilled, I rise to move under Rule 33 that the bill to amend Section 4 of the Mysore Court Fees Regulation, III of 1900, be read in Council.

2. The justification for the proposed measure was stated by me here the other day, and has been explained in the Statement of Objects and Reasons. It might be further explained that as the law is now understood to stand in suits between landlord and tenant, when the tenant sues the landlord to recover possession of land from which he was unlawfully ejected, the Court fee payable is based on the yearly rental as stated in clause (xi) (*e*) of section 4 of the Regulation. But if it is the other way, that is, if the landlord sues the tenant to recover possession of land which the tenant unlawfully persists in holding, the basis of the Court fee is not the rent but the value of the land itself. The bill now proposes to alter this so as to make the yearly rent the basis in both cases. To prevent the temptation which frequently exists to strain the terms of a tenancy beyond fair bounds either way, it is proposed to fix a minimum amount as the Court fee. Thus, the Court fee payable is to be a fixed fee of Rs. 10 or according to the last yearly rent whichever is the greater of the two. The proposed bill is short and simple, and I do not know that the Council is not prepared to proceed with it without the intervention of a Select Committee.

MR. B. NAGAPPA :

I second the motion. It is not necessary to refer this Bill for the consideration of the Select Committee.

There is an obvious defect in the section, namely, that it does not provide for cases where a tenant denies the landlord's title and the Courts allow the plaintiff to amend his plaint and prove his title. In such cases there is no provision empowering the Courts to levy additional Court fees. There will also be a difficulty about the question of jurisdiction.

With a view to remedy these defects an amendment may be proposed at the next meeting of the Council when this Bill will be formally considered.

[*Mr. Rangiengar.*]

MR. RANGIENGAR read Section 7, sub-head (xi), clause (*c.c.*) of the British Indian Court Fees Act as amended by Act VI of 1905, and said:—The amendment introduced into the British Indian Act is very simple and covers all cases contemplated by the present proposed amendment. There is no reason why any minimum fee of Rs. 10 should be fixed. As in British India, we here may simply provide for the Court fee being paid according to the annual rental value. The learned member in charge of the bill pointed out that a tenant can sue his landlord for possession of the property leased, paying a Court fee upon the annual rental value, and claimed for the landlord a similar indulgence. I am quite at one with him on this point. It seems to me that the provision relating to the suit by the tenant is capable of improvement. The provision as it stands at present enables the tenant to sue on a smaller stamp for being restored to possession of the property leased of which he has been wrongfully deprived. The existing provision does not provide for the tenant suing on a smaller stamp his landlord for being put in possession of the property leased, if the landlord refuses to deliver possession at all. A further difficulty in connection with the proposed amendment is what should be done when the defendant denies the lease altogether. Is the suit to be confined to the trial of one issue as to the existence of the relationship of landlord and tenant between the plaintiff and the defendant, and if that issue is found against the plaintiff, is the suit to be dismissed upon the analogy of a summary suit under Section 9 of the Specific Relief Act, or will the Council provide for the suit being tried on the question of title upon payment of any additional Court fee? These are some of the questions that demand consideration.

The Dewan observed that these were points to be discussed in a Select Committee, and the Council was also of this opinion.

The motion to read the bill was put to the Council and carried, and the bill was referred to a Select Committee consisting of Messrs. T. Ananda Rao, A. Rangaswami Iyengar, S. Narayana Rao, M. C. Rangiengar and B. Nagappa for report before the 28th November 1907.

The meeting was then dissolved.

V. P. MADHAVA RAO,
President.

3. On ~~and~~ and after that date, all existing rules and orders relating to village offices shall be repealed. Provided that nothing herein contained shall be deemed to affect any right acquired or to revive any right that has ceased to exist or to affect any act done or liabilities incurred under the said rules and orders.

Consequential (Repeal of ~~Act~~ rules & orders)

Mr. Hema Hanumanthaiyya proposes that greater publicity should be given to the Bill by causing it to be brought to the notice of Shanbhogs & Patels through Amildars.

The Shanbhogs & Patels of the Devanhalli Taluk protest against the passing of the Bill into law, since in their opinion it would be a hardship to them if the power now reserved to Govt. be vested in the Dy. Commrs, Asst. Commrs and Amildars.

H. Adiveppa of Channagiri proposes that the opinions of Deputy Commissioners and of Sub-Committees established throughout the Province for the consideration of the Bill shd. be taken before passing the Bill into Law.

~~(4)~~ 4. 3 All suits, appeals and applications pending at the commencement of this Regulation shall be heard and disposed of as if they had been preferred under this Regulation.

Mr. M. S. Narain Rao's objection to Proviso (1) — Any modification of the grouping of offices should be duly discussed by the Legislative Council, since the removal of any class of offices from the operation of the proposed law would deprive the holders of their protective privileges. Any such modification should take the form of legislative and not administrative action.

~~NOTIFICATION.~~

~~No. 29—L. C., dated the 26th July 1907.~~

~~Under Rule 31 of the Rules framed under Regulation I of 1907, the following bills together with the statement of objects and reasons are published for general information:—~~

THE VILLAGE OFFICES BILL.

A bill to consolidate and amend the Law relating to Village Offices in Mysore.

Preamble. Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore: His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement. 1. (1) This Regulation may be called the Mysore Village Offices Regulation, 190

(2) It extends to the whole of Mysore, provided that ~~and~~ Govt may, by notn in the offl Gaz, exclude any local area from its operation, ~~and~~

(3) It shall come into force ~~with effect from the expiry of one month from the date of its first publication in the official Gazette.~~ from such date as may be notified by Gov.

Definitions. 2. In this Regulation, unless there is something repugnant in the subject or context,—

"Village." "Village" means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office." "Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order or with the settlement of boundaries, or other matters of civil administration pertaining to a village, whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known.

Provisos. Provided as follows:—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may in like manner amend or cancel such notification.

~~4. provided that it shall be competent to the Govt to make rules as regards the action to be taken in respect of any such partition, transfer, encumbrance, attachment or sale effected contrary to the~~

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village officer.

"Village Officer."

"Emoluments" means and includes

"Emoluments."

(i) lands;

(ii) assignments of revenue payable in respect of lands;

(iii) fees in money or agricultural produce;

(iv) money-salaries and all other kinds of remuneration; granted ~~or continued in~~ respect of, or annexed to, any village office by the ~~State.~~ Govt.

"District ~~Deputy~~ Commissioner" means the chief local officer in charge of the revenue administration of a district.

"District Deputy Commissioner."

"~~Deputy~~ Asst Commissioner" ~~includes~~ means an Assistant Commissioner in charge of a division of a district and ~~shall~~ ~~who, for the time being, is authorized to exercise the powers of a Deputy Commissioner.~~ includes any other Asst Comrs to whom cases under this Regulation have been transferred for disposal.

"Deputy Commissioner."

Mr. M.S. Narain Rao proposes that it will be more easily understood & prevent confusion if "Assistant Commissioner in charge of groups of Taluks" for "Deputy Commr" throughout the Bill; and "Dy. Commr" for "Dist. Dy. Commr". He also proposes that a definition of "Assistant Commissioner" be added to the preliminary portion of the Bill.

Regarding Sec 3 — he says: — It is not expressly stated anywhere in the Bill that the offices and their emoluments are impartible & inalienable and that any private arrangements that would militate against this principle are void. Such a rule would put a stop to collusive agreements &c. It shd. therefore be laid down in clear & unmistakable terms.

R. Venkataramiah, Chancery pet; Myore — the lands enjoyed by Govt on village servants like Shalaris &c in lieu of their offices should be declared indivisible.

Whenever members of a family are allowed to attend to the duties by turns, the officiator leaves off after a short time and thereby causes inconvenience to Govt work. It may be therefore be ruled that each member should officiate for at least a year.

5. ~~3.~~ The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, partitioned or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Emoluments of village offices inalienable, and not liable to attachment.

6. ~~4.~~ (1) The Government may, with reference to rules made in this behalf under section 23, ~~21,~~ group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages; and, may also direct that any ~~thereupon,~~ ~~all~~ village offices in the villages, portions of villages or villages grouped, amalgamated or divided as aforesaid, shall cease to exist, and that new offices shall be created for the new village or villages.

Villages may be grouped, amalgamated or divided.

(2) In choosing persons to fill such new offices, the Deputy Commissioner or Asst Comr shall select the persons whom he may consider the best qualified from among the ~~families of the~~ last holders of the offices which have ceased to exist. or their families

(1). Sarad anga, Shamboque, Hosk de grama J. Naisipuddi

That ~~non residence~~ or village officer should not be made punishable for non residence in the village. He may be allowed to reside either in the Taluk or Hobli concerned.

H. Adiveppa of Channagiri says :— It is a real hardship to send away suddenly and without any remuneration the last holder of a village office wh. had been held by his ancestors for generations past. Some remuneration may ∴ be granted to such thrown-out men.

H. Gurn Rao & H. Siddappa of Kumsi Sub Talik represent that the rule that each Shanbhog is to look after a single circle is a hardship as the Potoji gst is small for their maintenance. Therefore such men as are capable may be appointed to more circles than one.

Mr. M. S. Narain Rao represents that the rules now in force enable Dy. Commrs to alienate the village offices from the family of a holder who is guilty of serious misconduct. There is no express provision on the point in the Bill & ∴ a re-enunciation of these principles in express terms is necessary.

Mr. Hema Hanumanthappa represents that indiscriminate fining should be discontinued & that in serious cases of misconduct the holders of offices may be threatened with suspension.

Mr. C. Sheshadri Iyengar, Retd Sch. Asst Fmr — The words "of his own motion or" occurring in subsections 1, 2 & 3 may be omitted, as such powers are likely to be abused to the detriment of the parties concerned.

R. Venkataraniah, Mysore. The appointments & dismissals of Shanbhogs & patels may be made as at present. But in order that the claim of the several claimants to these offices may not be interfered with one should be made to attend this work after another by turns.

Mr. Hema Hanumanthappa represents that the abolition of the system of registering the name of the sonless widow and appointing her representative as gumasta will lead to a great hardship in some cases. Deputy Commrs may therefore be given discretion to compel the person succeeding to the right to pay her a fourth of the emoluments for her maintenance throughout her life.

Mr. Sitharamappa, Advocate, Shimoga represents that depriving female heirs of their right to Patili + Shanbhogi offices is hard, as in many instances they entirely depend on the remunerations for their maintenance & will be left destitute if they are excluded.

H. Adiveppa of Channagiri also pleads similarly for the continuance of the time-honoured custom of appointing females as Baravard-dars allowing them to appoint Gumastas to carry on the work.

* The Deputy Comr may declare under rules to be framed by Govt under sec 23 that the dismissal or removal from office entails forfeiture of the right of succession from all undivided members of the family of the person so dismissed or removed.

(3) The Government may also direct that the number of village offices attached to a village shall be reduced, or the number of village officers or village officers ~~and increase of village officers~~ and, thereupon, the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices. or (b) increased in which case the D.C or A.C shall select the best qualified from among the family of the existing officers or Asst Comr

Reduction of village offices.

(were are of village offices)

7. (1) The Deputy Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause. but any order of dismissal or removal passed by an A.C. shall be subject to the confirmation of the D.C. (new clause) *

Power to punish village officers.

(2) An Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine any holder of a village office in an unalienated village for any of the causes specified in sub-section (1) and in such amount as the Government may, by general or special order, prescribe. or the P.S.T and Talari of an alienated village

(3) The ~~proprietor~~ holder of an alienated village may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office in his village, except the patel, shanbhog, toti and ~~the village watchman~~ talari, for any of the causes specified in sub-section (1); and may also fine the patel & shanbhog toti and talari

(4) The officer or person taking proceedings against a village officer under any of the preceding sub-sections of this section shall make a record of his reasons for so doing in writing and furnish a copy of the same to such village officer. provided that the Govt may invest the holder with all or any of the powers of an A.C under clauses (1) above

When such order is passed by the holder of an alienated village, a copy shall also be forwarded at the same time to the Amildar for information and record.

8. ~~6.~~ When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner shall fill up the vacancy in accordance with the provisions of the following sub-sections :— or Asst Comr

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

(1) No person shall be eligible for appointment who—

General qualifications requisite in all cases.

(a) is not of the male sex;

(b) has not attained ~~the age of~~ 18 years of age. ~~majority~~;

(c) is not physically and mentally capable of discharging the duties of the office;

Adivappa of Channagiri represents that it is a great hardship to declare a person ineligible on the ground of his not possessing educational qualifications & proposes that persons who are now holding a village office may be allowed in spite of their being illiterate to continue as the registered holders thereof & may be given power to appoint a Gumasta for carrying on the work.

R. Venkatramiah, Myore, proposes that in Malnad villages Shanbogues & Patels should be required to pass the Myore Lower Secy. Exam. & to produce certificates of having passed the ordinary revenue & criminal tests or of possessing knowledge in these.

Mr. M. S. Narain Rao takes objection to the use of the expression "Hindu Law" since there are some Patels who are Mohamedans and a few who are Europeans; and it is anomalous to apply the Hindu Law of Succession to them. He therefore proposes a change of expression removing this anomaly.

Re the devolution of office on a single heir, Mr. Sitharamayya, Advocate, Shimoga proposes that Patelli & Shanbhogi offices may be made available to all the competent legal heirs by turns, since undue advantage would be given to some to the hardship of others as there is no uniformity of rules to regulate the appointing of heirs to such offices.

Mr Shehadri Iyengar:- 6 (2)

1) The claims of poor widows for being registered as hakdars may be recognised

2) They may be allowed the option of producing an officiator who is not otherwise disqualified within a given time;

3) That on failure to do so, Govt may appoint an officiator & register his name as such.

4) that an officiator so appointed shall not be removed at the direct will of the registered holder, and Provided

5) that 1/4 or 1/3 of the pattadi amount may be ordered to be paid for their (widows') maintenance.

Sec 6 (4) -

Before the proviso the following may be added:-

"and who does not possess any interest in such office".

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section ~~21~~ 23;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner, or Asst Comr disqualifies him for holding the office;

(*f*) by reason of his bad character or antecedents, is, in the opinion of the Deputy Commissioner, or Asst Comr disqualified for holding the office.

Rule of devolution of succession.

(2) The succession shall be regulated by the ordinary provisions of the ~~Hindu~~ Law applicable to the last holder, provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, ~~lie with~~ be given to the eldest member of the eldest branch of such persons, ~~and provided~~

Further that the claims of persons who has prior to the commencement of this Regulation been recognised as Hakdars to this office or their heirs shall be considered subject to such rules as may be made by Govt in this behalf.

In certain cases person other than direct heir may be appointed.

(3) When the next heir is not qualified under sub-section (1), the Deputy Commissioner or Asst Comr shall appoint the person next in order of succession (~~the eldest member of the~~ eldest branch being preferred) ~~according to seniority of age in the senior branch~~) who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Temporary disqualification of heir in certain cases.

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Deputy Commissioner or Asst Comr may direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of the dismissed or suspended officer; ~~provided~~ that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3).

Procedure to be adopted when heir is a minor.

(5) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner or Asst Comr shall register ~~the~~ minor as the ~~heir~~ successor of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as ~~heir~~ successor

on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as ~~heir~~ successor under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner or Asst Comr shall fill up the vacancy in accordance with the provisions contained in the manner provided ~~as provided in sub-sections (2) and (3).~~

It shall be competent to the Deputy Comr. or Asst Comr to assign to such successor during his minority an allowance not exceeding one half of the emoluments attached to the office

(6) When the last holder of the office of Patel or Shanbhog has left a widow without male issue, it shall be competent to the ~~Asst~~ Deputy Comr. or Asst Comr to assign to her a portion not exceeding 25 p.c., of the emoluments attached to the office.

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office and the Deputy Commissioner does not give the direction referred to in sub-section (4), he shall fill up the vacancy in accordance with the provisions of this section as if it had been caused by the death of the said holder; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended, is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold the office.

R. Venkatraniah, Mysore.

In fact should entertain appeals against the arrangements made by the Inamdars in making appointments to Shanbhogi and Patelli offices in cases in which there is glaring injustice shown by them.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

9. ~~17.~~ When a vacancy occurs in the office of patel, shanbhog, nirganti, toti, or talari of an alienated village, the ~~proprietor~~ holders of such village shall fill up the vacancy in accordance with the ~~provisions of the following sub-sections:—~~ principles contained in section 6 subject to the confirmation of the D.C or A.C.

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex;

(*b*) has not attained the age of majority;

(*c*) is not physically and mentally capable of discharging the duties of the office.

Mr. M. S. Narain Rao represents that if the provisions of the Hindu Law be strictly followed, it would frequently lead to the office going into a new family altogether; e.g., a divided brother is excluded in favour of the daughter's sons of the last holder who belong to a new family. It should therefore be clearly stated that when a person is available in the male branch of the family though such member is divided the succession should devolve on him in preference to one coming from the female branch.

Mr. Hema Hanumanthayya has also put forth a similar objection in this connection.

Rule of devolution of succession.

(2) The succession shall be regulated by the ordinary provisions of the Hindu Law: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, lie with the eldest member of the eldest branch of such persons.

X If the appointment be not made by the holder of the village within a reasonable time, it shall be competent to the Deputy Comr or Asst Comr to make such appointment.

In certain cases person other than direct heir may be appointed.

(3) Where the next heir is not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession according to seniority of age in the senior branch who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Procedure to be adopted where heir is a minor.

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the proprietor shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office, until the person registered as heir is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if, on attaining majority, he proves to be disqualified under clause (*c*) of sub-section (1), the proprietor shall fill up the vacancy as provided in sub-sections (2) and (3).

Mr. M. S. Narain Rao represents that Sec. 8 should be omitted altogether since there are no hereditary village offices other than those specifically named, except perhaps claims to perform offices in temples etc which cannot properly be included in a Bill relating to Village Offices.

Succession in the case of offices other than patel, shanbhog, etc.

10. ~~8.~~ The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari, shall devolve in accordance with the law or custom applicable thereto ~~at the date on which this Regulation comes into force~~; ~~or~~ and, in the absence of any such law or custom, in accordance with the provisions of ~~sub-section (2) of section 6 and sub-section (2) of section 7 so far as applicable~~. sections 8 and 9 respectively.

Suits for offices, for recovery of emoluments and for registry as heir.

11 ~~9.~~ (1) Any person may sue before the Deputy Commissioner or the court for any village office in an alienated or unalienated village or for recovery of the emoluments of any such office, on the ground that he is entitled under ~~sub-section (2) or (3) of section 6, or sub-section (2) or (3) of section 7, or section 8~~ section 8, 9 or 10 of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner or the court to be registered as ~~heir~~ successor of the last holder of any such office:

Provided as follows:—

No suit for declaratory decree.

(i) No suit shall be entertained for a mere declaratory decree.

Procedure in case of dispute as to nature of emoluments.

(ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Deputy Commissioner or Asst Comr shall decide the claim on the assumption that only the ~~said~~ assignment of revenue constitutes the emoluments; but such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

Rejection of plaint when claimant is ineligible for appointment.

(2) If, at any time before the completion of the trial of a suit preferred under this section ~~for any office or for the recovery of the emoluments of any office~~, it appears to the Deputy Commissioner or Asst Comr that the claimant is not eligible for appointment on any of the grounds referred to in ~~under~~ sub-section (1) of section ~~6 or sub-section (1) of section 7~~ of this Regulation, ~~as the case may be~~, he shall pass an order rejecting the plaint.

Mr Shekhadri Iyengar:-
The limitation of time within which (1) suits may be brought (2) applications for execution may be presented appears to be short. The period may be raised to 5 and 3 years respectively.

Limitation of time within which suits may be brought.

10. (1) No suit preferred before a Deputy Commissioner or Asst Comr under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising, whether such date be before or after the commencement of this Regulation.

Limitation in case of minority.

Provided that, in the case of a person who, by reason of minority, was disqualified for holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Limitation of time within which execution of decree or order may be applied for.

(2) No application for the execution of a decree or order passed under this Regulation shall be entertained, if made after the expiration of one year from the date of such decree or order.

Execution of decrees and orders passed previous to commencement of this Regulation.

(3) Decrees or orders passed previous to the commencement of this Regulation in regard to claims to village offices or the emoluments annexed thereto, may be executed under the provisions of this Regulation; provided that no application for the execution of any such decree or order shall be entertained if made either after the expiration of three years from the date of such decree or order

Mr. M. S. Narain Rao represents that females are excluded by the Regulation & the rule of devolution of succession on a single heir will exclude the performance of duties by rotation. But hitherto females were Sardar-dars & rotation was allowed; what is to become of the rights that may have accrued in these respects before the passing of the Bill into law. He proposes that these rights may be allowed to subsist during the lifetime of the persons that now enjoy them.

or after the expiration of one year from the commencement of this Regulation.

Limitation when appeal preferred.

(4) In cases in which the decree or order sought to be executed was appealed against, the periods of limitation prescribed in sub-sections (2) and (3) shall commence from the termination of the appeal.

Power of District Deputy Commissioner in regard to transfers of suits.

12. ~~10~~ ~~11~~. The ~~District~~ Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner ~~in charge of a division in the district~~, or transfer any suit from ~~the~~ file ~~of one such~~ Assistant Commissioner to that of another ~~or to the file of an~~ Assistant Commissioner ~~not in charge of a division~~, for disposal.

Procedure to be observed in trying suits.

~~12~~. (1) The trial of suits under this Regulation shall be regulated by rules made by Government under section 21 and by the following provisions:—

1. ~~11~~. The procedure applicable to suits filed under this Regulation shall be the same as that prescribed for formal enquiries in the Land Revenue Regulations (IV of 1888), subject to such ~~rules~~ rules as may be framed under section 21.

Date of hearing to be fixed and parties to be heard.

(i) A date shall be fixed for the hearing of the suit and the same shall be notified to the parties, who shall be entitled to be heard in person or by agent;

Witnesses may be produced or summoned.

(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness or that any person shall be summoned to produce a document, and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so;

Record of proceedings.

(iii) The officer trying the suit shall record in his own hand a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.

Obligation to obey summons.

(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.

Decrees may provide for costs and shall be executed according to rules made by Government.

13. ~~13~~. Decrees and orders passed in suits under this Regulation may provide for payment of costs according to such scale and subject to such rules as may be prescribed by Government under section ~~21~~, and shall be executed in

accordance with rules to be made under the said section and the corresponding provisions under the L. R. Code

Mr. M.S. Narain Rao suggests the substitution of "Chief Court" for "Chief Controlling Revenue Authority" on two grounds:— (1) The cases contemplated require very careful consideration at the hands of a tribunal possessing the highest legal status, since upon such decisions rest in many cases the competancy or otherwise of revenue officers to proceed in the case; (2) certain provisions of the Land Revenue Code similar to these recognise the reference of cases to the Chief Court. So also may the provisions of this Regulation.

In certain cases Deputy Commissioner may refer question of law to the Chief Controlling Revenue authority.

14. (1) If, before or during the hearing of a suit under this Regulation or of appeal against a decree or order passed in a suit under this Regulation, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained and refer such statement for the decision of the Chief Controlling Revenue authority and shall stay further proceedings until the said decision is communicated to him.

(2) If the officer making the reference to the Chief Controlling Revenue authority is not the District Deputy Commissioner, the reference shall be made through the District Deputy Commissioner.

Procedure to be followed in case of such reference.

Decision of Chief Controlling authority not to be contested.

(3) The Chief Controlling Revenue authority shall, if any of the parties so request, hear him or his agent and shall decide the point referred and transmit a copy of its judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the Chief Controlling Revenue authority, and the correctness of the decision of the Chief Controlling Revenue authority shall not be contested in any appeal made under this Regulation.

Disposal of suits and appeals pending at commencement of Regulation.

15. All suits brought and appeals made previous to the commencement of this Regulation shall, after the commencement thereof, be heard and disposed of as if they had been preferred under this Regulation.

transposed as Section (1) sub section (2)

Mr. Hema Hanumanthayya proposes that Sec. 9 + 16 should be so amended as to take away from the civil courts all jurisdiction in disputes on village offices, since an inordinate delay & a consequent neglect of village accounts would be a result of allowing such jurisdiction.

Jurisdiction of Civil Courts barred.

15. ~~16~~. No Civil Court shall have authority to take into consideration or decide any claim to succeed to, or to the possession of, any village office, or any question as to the rate or amount of the emoluments of any village office, or except as p rovided in proviso (ii) to

sub-section (1) of section 9, any claim to recover the emoluments of any such office.

Proviso.

Provided that, if, in any suit instituted under this Regulation, the defendant has pleaded before the Deputy Commissioner that a Revenue Court has no jurisdiction to entertain the suit, on the ground that no emoluments, as defined in this Regulation, appertain to the office in respect of which the suit is brought, and if, on appeal preferred from the decree in such suit, the appellate authority has decided adversely to such plea, the defendant may, within six months from the date of the appellate decree, institute a suit in a Civil Court to set aside such appellate decree on the said ground and on that ground only.

Mr Shesadri Iyengar:- Provision may be made under which 2nd or special appeals may be made to the Government, at least in respect of the Patels and Shanbogi offices. As special appeals before Govt are disposed of by the members of Council, the arrangement will give great satisfaction to the parties concerned.

Appeal against order or decree of Deputy Commissioner.

16. ~~17~~. (1) From every decree or order passed by an Asst Comr ~~a Deputy Commissioner~~ under section ~~4 or 5~~, and ~~from every decree or order passed by a Deputy Commissioner in a suit preferred under section 9~~, an appeal shall lie, ~~within one month~~, to the ~~District~~ Deputy Commissioner, ~~or, if the said order or~~ and from every decree or order ~~was~~ passed by ~~the~~ a ~~District~~ Deputy Commissioner, an appeal shall lie, ~~within three months~~, to the ~~Chief Controlling Revenue authority~~ Rev: Comr. The decision, on appeal, of the ~~District~~ Deputy Commissioner or the ~~Chief Controlling Revenue authority~~ Rev: Comr, ~~as the case may be~~, shall be final.

Second appeal in certain cases.

Provided that, in respect of the offices of patel and shanbhog, a second appeal shall lie, ~~within three months~~, to the ~~Chief Controlling Revenue authority~~, Rev: Comr, against the decision on appeal of the ~~District~~ Deputy Commissioner in suits preferred under section 9, and in cases of dismissal of a village officer under section 5.

Explanation. An order passed by the Deputy Comr or Asst Comr under sec 7 shall be deemed to be an appealable order.

Appeal against order of Amildar or Deputy Amildar or proprietor.

(2) From every order passed by an Amildar or Deputy Amildar under sub-section (2) of section 5 and from every order passed by a ~~proprietor~~ holder under sub-section (3) of section 5, an appeal shall lie ~~within one month~~ to the Deputy Commissioner, whose or Asst Comr decision shall be final.

Disposal of appeal by officer who passed original order.

17. ~~18~~. If the officer to whom an appeal is presented under this Regulation ~~in the capacity of District Deputy Commissioner or Deputy Commissioner,~~ happens to be the officer who passed the decision which is appealed against in another capacity, he

shall report the fact to the ~~Chief Controlling~~ Revenue ~~authority~~ Commr or to the ~~District~~ Deputy Commissioner, as the case may be, and the appeal shall be disposed of by the ~~Chief Controlling authority~~ Rev Commr or ~~District~~ Deputy Commissioner, and the order passed on appeal shall be final.

Certain sections of the Limitation Act apply.

22 ~~19~~. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, *mutatis mutandis*, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Regulation.

Power of Government to place village watchmen under Police authorities.

~~20. The Government may declare that the powers of punishing village officers which are vested in the Deputy Commissioner by this Regulation shall be exercised in any specified local area by the Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or Police officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or Police officer passed by a Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Deputy Commissioner, whose decision shall be final.~~

Mr. Hema Hanumanthappa represents that it is a hardship to invest the Police Officers such as Superintendents and Assistant Superintendents of Police with the powers of punishing village officers; and proposes that it may be provided that any department which may have a complaint to make may refer the matter to the Amildar.

Government may make rules on certain subjects.

23 ~~21~~. (1) The Government may, by notification in the official Gazette, make rules, not inconsistent with this Regulation, in regard to the following ~~matters~~ :—

(i) the division, grouping and amalgamation of villages; and other matters consisting,

(ii) the holding of enquiries under sections 4 6 and 5 7 and the hearing of appeals under section ~~17~~; 16

(iii) the educational qualifications, if any, required of the holders of village offices;

(iii) matters falling under sections 8 and 9.

V ~~(iv)~~ the procedure to be followed in disposing of applications, suits, ~~and~~ appeals, ~~from decrees or orders passed in suits~~ and the registers to be maintained in connection therewith;

(iv) action to be taken in respect of any alienation of emoluments contrary to the provisions of section 35.

(VI) ~~(v)~~ the execution of decrees and orders ~~passed in suits~~ and the taxation of costs;

Mr Shesh adri Iyengar.
At present village servants other than patels and shanbogues get no remuneration from government. Patels and Talaries depend for the remuneration on the mirasi they get from ryots, and these have to give mirasi to Neighbours & Begars also. The arrangement is unsatisfactory. The remuneration of Patels & Shalaries may be fixed by govt.

VII (vi) the emoluments to be assigned to the holders of village offices, and the

method of assessment and payment thereof;

(VII) ~~(vii)~~ the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them;

(IX) ~~(viii)~~ the custody, production and transfer of the accounts and other records kept by holders of village offices;

(X) ~~(ix)~~ any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Regulation.

Until such rules are made, existing rules to be in force.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto at the time ~~immediately previous to the commencement~~ of this Regulation shall, so far as they are consistent with this Regulation, be deemed ~~to be in operation and~~ to have been made under the preceding sub-section.

Additions to be proposed —

Mr. Hema Hanumanthappa represents that the office of Shanbhog is recognised as a very respectable position & that therefore Deputy Commissioners may be empowered to permit registered holders of village offices to employ Gumastas on their responsibility to perform the duties of the office.

He also proposes the addition of a provision for facilitating the recovery by Totis, Talaris &c of their Mirasis & for the enjoyment of their inams, since their means of subsistence has for various reasons become scanty.

He further proposes that some concession may be shown to village officers to enable them to practise hospitality to strangers who may happen to visit their villages.

H. Adiveppa of Channagiri represents that the allowance now granted to Shanbhogs is so small that the honour attached to the office is lessening on account of the poverty to which the holders are reduced.

He also proposes that the office of Patel may be done away with or that a Patel be entrusted with no responsible work as he is generally illiterate and as it is the Shanbhog who carries on all the important work of the village.

Statement of Objects and Reasons.

The necessity for replacing the existing scattered and disjointed body of rules and orders with regard to village offices in Mysore by a systematic scheme of legislation, has engaged the consideration of Government for some time past. Of these rules and orders a few, such as the Rules* for the remuneration of patels and shanbhogs and minor village servants, have the force of law; others are orders passed by Government in appeals from the decisions of Revenue Officers in regular suits; and a large number are merely administrative orders passed on the miscellaneous side and as such liable to be disregarded by subordinate officers in regular suits. The course of decisions, too, especially in the matter of succession to village offices, has not been by any means always uniform or certain; with the result—which conflicting decisions induce—of encouraging litigation. Lastly, the success of the Revenue administration depends to a great extent upon the efficiency of the village service; and the introduction of a law to regulate the latter and place it upon a proper basis follows naturally on the introduction of the Land Revenue Code, which has governed the former for the last fifteen years.

* Issued under the authority of the Government of India, with the Chief Commissioner's Notifications No. 219, dated the 27th October 1874, and No. 123, dated the 1st August 1878.

Such, then, is the occasion for the accompanying Draft Regulation, which, it may be observed, follows to a large extent (but with important variations) the lines of the Madras Hereditary Village Offices Act, III of 1895, the provisions of the latter being found, on careful examination, to be much better adapted to local requirements than are those of the Bombay Hereditary Offices Act, III of 1874.

It now remains to describe briefly the main provisions of the proposed Regulation.

Section 2 deals with definitions.

Under the definition of "village" here given, it will be possible to declare two or more villages ordinarily so called to be a single village for the purposes of the Regulation.

The characteristics of a "Village Office" as here defined are—

(i) the assignment of "emoluments" (a term defined comprehensively in the same section); and (ii) the annexing to the office of duties connected with some branch of the Civil administration pertaining to a village, whether these duties are actually demanded or not.

The provisos give power to Government, on the one hand, to exclude any office from the operation of the Regulation, and, on the other, to decide whether a particular office falls under the definition or not.

The distinction drawn between "Deputy Commissioner" (a term applicable in certain cases to a Divisional Assistant Commissioner) and "District Deputy Commissioner" (denoting the Chief Revenue Officer of the District) is a convenient one, and has been taken from the Madras General Clauses Act, 1891.

Section 3 embodies the existing law with respect to the inalienability of emoluments and their non-liability to attachment and sale by Courts.

Section 4 empowers Government to group, amalgamate or divide villages, and to reduce the number of offices, in a village, as may be necessary.

Section 5 deals with the powers of Deputy Commissioners, Amildars and Inamdars to punish village officers for reasons to be recorded in writing. In consonance with the existing practice, the powers of the Deputy Commissioner to punish officers in alienated villages have been

assimilated to those with respect to officers in Government villages. In Madras, the latter powers are subject to restriction.

Sections 6 and 7 declare the rules to be observed in making appointments to the five main village offices of patel, shanbhog, nirganti, toti and talari. It is merely necessary to note that these rules will, among other things, do away with the right of females in certain circumstances, to be registered as the holders of village offices, but not of course, so as to interfere with claims to succession being traced *through* females, and that the rule of devolution of succession to a single heir as laid down will exclude the performance of duties by rotation; the latter being a system attended with many difficulties, not satisfactory, on the one hand, to the parties concerned, and not conducive, on the other, to the efficiency of business, besides leading to faction, litigation and intrigue and to a relaxation of the sense of responsibility. It may also be remarked that, under Section 7, the confirmation of the Deputy Commissioner will not in future be necessary, as at present, for appointments of patels and shanbhogs made by proprietors of Inam villages.

Section 8 deals with succession in the case of other village offices than the five specified, where such exist and are recognized. But, as a matter of fact, it may be observed that the connection of Government with such other offices comprised in the ancient *barabaluti* system has practically ceased.

Sections 9 to 15 and 17 to 19 embody the usual provisions about suits, procedure, appeals, limitation and similar matters.

Section 16 bars the jurisdiction of Civil Courts in regard to claims for the succession of village offices in respect of emoluments.

Section 20 will probably become unnecessary on the passing of the Police Regulation now before Government.

Section 21 enumerates the matters in regard to which Government may frame rules; and declares that, till rules are so made, the existing rules shall continue in force.

By Order,
K. MYLAR RAO,
Secy., Mysore Legislative Council.

G.R.S. 26]

XI

(9)

File No.

Serial No.

Diary No. of letter replied to

Office of the Secy. Mysore Leg. Council No. 193 L.C.7-07

General and Revenue Secretariat

( )

, *the* 190 .

Date of issue 4th Nov. 1907

Signed by Mr. K. Mylar Rao

To Notification

Under rule 40 of the rules for the conduct of the business of the Mysore Legislative Council, the following report of the Select Committee on the Bill to consolidate and amend the law relating to village officers in Mysore and the Bill as amended by the Committee are published for general information.

B. O.

Secy. Mysore Leg.

To the Comptroller, Mysore for publication and with the

SUBJECT.

The amendments made by the Committee should be printed in italics alongside of the portions which are amended by the Committee, the latter being scored out as is done in the accompanying copy of the Bombay Act [illegible], which may be returned when no longer required) or in case this form is not practicable, ~~they may be brought~~ brought under double brackets, any other distinguishing marks be used, the fact may also be informed. ~~and that~~ ~~Proofs~~ Proofs should be sent for revision before formal copies are [illegible]

[See note [illegible] and the Bill as amended by the Committee

List of enclosures

Copied by [illegible] 4/11/07

Examined by

MGCPB—30,000—16-2-05

XII

NOTIFICATION.

No. 193—*L. C.* 7-07, *dated* 4*th November* 1907.

Under Rule 40 of the rules for the conduct of business of the Mysore Legislative Council, the following report of the Select Committee on the Bill to consolidate and amend the Law relating to Village Offices in Mysore, and the Bill as amended by the Committee are published for general information.

By Order,
K. MYLAR RAO,
Secy., Mysore Legislative Council.

Report of the Select Committee appointed for the consideration of the Village Offices Bill.

We, the Members of the Select Committee appointed for the consideration of the Village Offices Bill, beg to submit the following report :—

2. Upon a consideration and discussion of the several provisions of the Bill clause by clause among ourselves, and upon a consideration also of the various representations relating to the Bill, received by the Secretary in response to the publication of the Bill in the Gazette, we have considered it expedient to recommend the amendments which have been introduced into the copy of the draft herewith annexed, in which the numbering of the clauses has also been altered to the necessary extent. The principal amendments proposed together with the reasons for the same are noted here below.

3. *Clause 1, sub-clause (2)*—As the Government may, in certain cases, consider it expedient to exclude any particular area from the operation of the Regulation, power has been reserved to them for the purpose by the addition of a proviso.

4. *Clause 1, sub-clause (3)*—The date from which the Regulation is to come into force has been altered, as we think it desirable that Government should fix it by notification rather than that it should be determined by the public with reference to the date of publication of the Regulation.

5. *Clause 2.*—The original Bill contains no clause repealing the existing rules and orders and saving titles already acquired. We have therefore added one and marked it clause 2.

6. *Clause 3—(Clause 15 of the original Bill).*—Clause 15 of the original Bill provides for the disposal of suits pending at the commencement of this Regulation. This has been transposed next to clause 2, as being its proper place and marked clause 3.

7. *Clause 4—(Clause 2 of the original Bill).*—The definition of "emoluments" given in the original Bill is the same as that contained in Madras Act III of 1895, but contains a misprint. This has been corrected so that the qualification "granted or continued in respect of or annexed to any village office by Government," would apply to the four classes of emoluments previously specified. The word "Government" has been substituted for the word "State" as being the term used throughout the Regulation.

8. The words "District Deputy Commissioner" and "Deputy Commissioner" being confusing, the familiar terms "Deputy Commissioner" and "Assistant Commissioner" have been substituted for them, respectively, throughout the Bill. In some places, where such a provision is necessary, both the terms "Deputy Commissioner" and "Assistant Commissioner" have been adopted to cover the cases in which the Deputy Commissioner has one or more taluks under his own and direct charge. The definition of "Assistant Commissioner" has been amended so as to include any Assistant Commissioner to whom cases under this Regulation may be transferred for disposal.

9. *Clause 5—(Clause 3 of the original Bill).*—The word "partitioned" has been added after the word "transferred" as the emoluments of village officers may not be reckoned among family properties. and form the subject of partition.

10. *Clause 6, sub-clause (1)—(Clause 4, sub-clause (1) of the original Bill).*—This sub-clause in the original Bill makes all the village offices concerned cease to exist on the grouping, amalgamation or division of villages. The villages may be grouped, amalgamated or divided in respect of *certain* village offices only. We have therefore amended this sub-clause so as to empower Government to direct what particular village offices shall cease to exist and what particular ones shall be created.

11. *Clause 6, sub-clause (2)—(Clause 4, sub-clause (2) of the original Bill).*—To remove all doubt as to whether the last holders may not be selected, a small alteration has been made in the wording of the sub-clause.

12. *Clause 6, sub-clause (3)—(Clause 4, sub-clause (3) of the original Bill).*—In the original Bill, provision is made only for the reduction of village offices but not for the reduction of the number of persons holding a village office, or for the increase in the number of village offices or officers. These omissions have been supplied by suitable amendments.

13. *Clause 7, sub-clause (1)—(Clause 5, sub-clause (1) of the original Bill).*—As the power to dismiss or to remove a village officer is an important one, we have provided that when exercised by an Assistant Commissioner, his order should be subject to the confirmation of the Deputy Commissioner. Further, the original Bill contains no provisions for depriving the heirs of a dismissed holder of the hak, as is now often done where the dismissal has been for a heinous offence. To remedy this, a new clause has been added.

14. *Clause 7, sub-clause (2)—(Clause 5, sub-clause (2) of the original Bill).*—We are of opinion that it is absolutely necessary that an Amildar or Deputy Amildar should have the power of fining the patel, shanbhog, toti and talari of an alienated village to enable him to exercise some control over them, and have accordingly provided for the same. Such control is found necessary particularly in Police and Sanitary matters.

15. *Clause 7, sub-clause (3)—(Clause 5, sub-clause (3) of the original Bill).*—The words "proprietor" and "village watchman" have been replaced by the words "holder" and "toti and talari" respectively wherever they occur in the Bill, as the latter are the terms used in the Land Revenue Code and the other parts of this Regulation.

It seems to us desirable to empower the holder of an alienated village to fine the patel, shanbhog, toti and talari thereof, as he will otherwise have no control over them, and further to reserve power to Government to invest him with the higher powers of suspension, removal or dismissal, if he is found fit to exercise them. We have accordingly amended the clause so as to provide for this.

16. *Clause 7, sub-clause (4)—(Clause 5, sub-clause (4) of the original Bill).*—As village officers are sometimes punished on mere complaints or reports and without proper enquiry, we consider it necessary that the authority taking proceedings against them should hold an enquiry himself. We further think that any order

punishing a village officer passed by the holder of an alienated village should at once be communicated to the local Amildar.

17. *Clause 8, sub-clause (1)—(Clause 6, sub-clause (1), of the original Bill).*—The age of majority has been specified as eighteen years completed.

Though sex is ordinarily a factor to be taken into consideration, the minor village offices such as nirganti, toti and talari are sometimes filled by women with fair efficiency and to the entire satisfaction of all concerned. We have therefore proposed to reserve to the Deputy Commissioner the power to appoint females in exceptional cases.

18. *Clause 8, sub-clause (2)—(Clause 6, sub-clause (2), of the original Bill.)*—The succession to the office has been made to be regulated in general terms by the "law applicable to the last holder" so as to cover cases in which the last holder is other than a Hindu to whom the Hindu Law may not be applicable. A further proviso has been added to this sub-clause so as to allow of the eligibility of persons recognised as joint holders of an office being considered along with that of heirs of the last holder on the occurrence of a vacancy.

19. *Clause 8, sub-clause (4)—(Clause 6, sub-clause (4), of the original Bill.)*—The sub-clause in the original Bill gives a wide discretion to the Deputy Commissioner or Assistant Commissioner, in the exercise of which it is just possible that he may choose from outside the family and may overlook the rights of the members of the divided family. We have accordingly provided that preference should be given to the *nearer members* of the family, as far as possible.

20. The word "heir" used in clause 6, sub-clause (5), of the original Bill does not indicate clearly to whom the succession is to be traced. It has been replaced by the word "successor."

21. Sub-clause (6) of clause 6 of the original Bill being superfluous, has been omitted.

22. *Clause 8, sub-clauses (5) and (6).*—When the last holder of an office has died, leaving a widow without male issue, and also when the person succeeding to a vacancy is a minor, it may be a very great hardship, if a portion of the emoluments of the office be not made available for the widow's or the minor's maintenance. We have therefore considered it fit that the Deputy Commissioner should be empowered

to direct that a portion of the emoluments not exceeding 25 per cent in the case of a widow and not exceeding 50 per cent in the case of a minor, be so paid, and also to revise such order whenever found fit or necessary.

23. *Clause 9—(Clause 7 of the original Bill).*—We see no reason why there should be any difference between alienated and unalienated villages in regard to the qualifications required for the five classes of village offices. According to the Bill, the right of appointment vests in the holder of the alienated village, but we are of opinion that the appointment should be subject to confirmation by the Deputy Commissioner or Assistant Commissioner. We further think that in case the holder of the village fails to fill up a vacancy within a reasonable time, the Deputy Commissioner or Assistant Commissioner should have the power to make the appointment. The clause has been amended accordingly.

24. *Clause 11, sub-clause (2)—(Clause 9, sub-clause (2), of the original Bill).*—It seems to us that the words "for any office or for the recovery of the emoluments of the office" are unnecessary, because even a minor may be ineligible under clause 8, sub-clause (1), paras (*e*) and (*f*). They have therefore been omitted.

25. *Clause 12—(Clause 11).*—The transfer of a case by the Deputy Commissioner from his own file has not been provided for in the original Bill. This has been rectified.

26. *Clause 13—(Clause 12).*—We are of opinion that the procedure prescribed for formal enquiries under the Land Revenue Code may conveniently be followed in regard to suits filed under this Regulation subject to such rules as may be framed under clause 23. Clause 12 of the original Bill has accordingly been amended.

27. *Clause 15—(Clause 16 of the original Bill).*—The proviso in clause 16 of the original Bill is framed on the analogy of the procedure in British India. It is not suited to the system obtaining in Mysore and has therefore been omitted.

28. *Clause 16—(Clause 17).*—We think that the order passed by a Deputy Commissioner or Assistant Commissioner confirming the appointment made by the holder of an alienated village, should be open to appeal. We have therefore added an explanation to this clause.

29. *Clause 18—(Clause 14 of the original Bill).*—This is clause 14 of the original

Bill. It has been transposed and brought here as being its proper place. The clause in the original Bill, though copied from the Civil Procedure Code, has omitted the words "in which the decree is final," and "with its own opinion on the point," occurring in section 617 of the Code. These have been added in their proper places. We also think that the term "Revenue Commissioner" should be substituted for the words "Chief Controlling Revenue authority" occurring in this and other parts of the Regulation to suit present conditions.

30. *Clauses 19 and 20.*—Two new clauses 19 and 20 relating to power to call for records of cases, and applications for review based on sections 622 and 623, Civil Procedure Code, have been added.

31. *Clause 21—(Clause 10 of the original Bill).*—We think that the several provisions contained in the original Bill regarding limitation for suits, appeals and applications, may, with advantage, be relegated to a schedule to be appended to the Regulation. We have accordingly omitted clause 10 of the original Bill and framed a new clause 21, directing the dismissal of suits, etc., instituted after the period of limitation, and we have attached a schedule prescribing periods of limitation for the several cases.

32. Clause 20 of the original Bill has been omitted, as provision has been made in this behalf in the Police Bill now before the Legislative Council.

33. The original Bill contains no provision to enforce the prohibition against alienations, etc., made in clause 5, and that clause itself, if taken absolutely, would be inconsistent with some of the provisions of the Potgi rules. Hence a new clause has been added reserving to Government the power to frame rules to regulate the action to be taken in case of such alienations.

34. The other amendments that have been made are trivial or incidental to those noted above.

35. In conclusion, we have the honor to recommend that the Bill as amended by us be passed into law.

M. KANTHARAJ URS,
(*Chairman*).
A. RANGASWAMI IYENGAR.
V. N. NARASIMMIYENGAR.
M. C. RANGIENGAR.
T. ANANDA RAO.

2nd November 1907.

Note.—The portions within heavy brackets are the deleted portions of the original bill and those in italics are newly inserted.

THE VILLAGE OFFICES BILL.

A bill to consolidate and amend the Law relating to Village Offices in Mysore.

(Bill as revised by the Select Committee.)

Preamble.

Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore: His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Village Offices Regulation, 190

(2) It extends to the whole of Mysore, [and] *provided that Government may by notification in the official Gazette exclude any local area from its operation and may amend or cancel such notification.*

(3) It shall come into force [with effect] from [the expiry of one month from the] *such* date [of its first publication in the official Gazette] *as may be notified by Government.*

2. On and after that date, all existing rules and orders relating to village offices shall be repealed; provided that nothing herein contained shall be deemed to affect any right acquired or to revive any right that has ceased to exist, or to affect any act done or liabilities incurred under the said rules and orders.

3. All suits, appeals and applications pending at the commencement of this Regulation shall be heard and disposed of as if they had been preferred under this Regulation.

Definitions.

[2.] *4.* In this Regulation, unless there is something repugnant in the subject or context,—

"Village."

"Village" means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office."

"Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order or with the settlement of boundaries, or other matters of civil administration pertaining to a village,

whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known:

Provisos.

Provided as follows :—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may in like manner amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer."

"Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village officer.

"Emoluments."

"Emoluments" means and includes

(i) lands ;

(ii) assignments of revenue payable in respect of lands ;

(iii) fees in money or agricultural produce ;

(iv) money-salaries and all other kinds of remuneration ;

granted or continued in respect of, or annexed to, any village office by the [State] *Government.*

[District] "Deputy Commissioner."

"[District] Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district.

"[Deputy] *Assistant* Commissioner."

"[Deputy] *Assistant* Commissioner" [includes] *means* an Assistant Commissioner in charge of a division [who, for the time being, is authorized to exercise the powers of a Deputy Commissioner] *of a district and includes any other Assistant Commissioner to whom cases under this Regulation have been transferred for disposal.*

Emoluments of village offices inalienable, and not liable to attachment.

[3.] *5.* The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, *partitioned*, or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Villages may be grouped, amalgamated or divided.

[4.] *6.* (1) The Government may, with reference to rules made in this behalf under section [21] *23*, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages; and, *may also direct that any* [thereupon, all] village office [s] in the villages, portions of villages or villages grouped, amalgamated or divided as aforesaid, shall cease to exist, and *that* new offices shall be created for the new village or villages.

(2) In choosing persons to fill such new offices, the Deputy Commissioner *or Assistant Commissioner* shall select the persons whom he may consider the best qualified from among [the families of] the last holders of the offices which have ceased to exist *or their families.*

Reduction [of] *or increase* of village offices *or village officers.*

(3) The Government may also direct that the number of village offices attached to a village *or the number of village officers* shall be

(*a*) reduced, and, thereupon, the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices;

or (b) increased, in which case the Deputy Commissioner or Assistant Commissioner, shall select the best qualified from among the families of the existing officers.

Power to punish village officers.

[5.] *7.* (1) The Deputy Commissioner *or Assistant Commissioner* may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause, *but any order of dismissal or removal passed by an Assistant Commissioner, shall be subject to the confirmation of the Deputy Commissioner.*

The Deputy Commissioner may declare, under rules to be framed under section 23, that the dismissal or removal from office entails forfeiture of the right of succession of all undivided members of the family of the person so dismissed or removed.

(2) An Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine any holder of a village office in an unalienated village *or the*

patel, shanbhog, toti and talari of an alienated village for any of the causes specified in sub-section (1) and in such amount as the Government may, by general or special order, prescribe.

(3) The [proprietor] *holder* of an alienated village may, of his own motion or on complaint and after enquiry, *fine*, suspend, dismiss or remove any holder of a village office in his village, except the patel, shanbhog, [and the village watchman,] *toti and talari, and may also fine the patel, shanbhog, toti and talari*, for any of the causes specified in sub-section (1).

Provided that the Government may invest the holder with all or any of the powers of an Assistant Commissioner, under clause (1) above.

(4) The officer or person taking [proceedings] *action* against a village officer under any of the preceding sub-sections of this section shall [make a record of his reasons for so doing] *hold the enquiry himself, record his proceedings*, in writing and furnish a copy of [the same] *order* to such village officer. *When such order is passed by the holder of an alienated village, a copy shall also be forwarded at the same time to the Amildar for information and record.*

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

[6.] *8.* When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner *or Assistant Commissioner* shall fill up the vacancy in accordance with the provisions of the following sub-sections:—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex;

(*b*) has not attained [the age of] majority, *that is, completed 18 years of age*:—

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section [21] *23*.

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner *or Assistant Commissioner*, disqualifies him for holding the office;

(*f*) [by reason of his bad character or antecedents,] is, in the opinion of the Deputy Commissioner *or Assistant Commissioner*, disqualified for holding the office, *by reason of his bad character, or ante-cedents.*

Provided that in the case of nirganti, toti and talari, the Deputy Commissioner or Assistant Commissioner may, for special reasons, make an exception in favor of females otherwise competent.

Rule of devolution of succession.

(2) The succession shall be regulated by the ordinary provisions of the [Hindu] law *applicable to the last holder*: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, [lie with] *be given to* the eldest member of the eldest branch of such persons,—*and provided further that the claims of persons who had prior to the commencement of this Regulation been recognised as hakdars to the office or their heirs shall be considered subject to such rules as may be made by Government in this behalf.*

In certain cases person other than direct heir may be appointed.

(3) When the next heir is not qualified under sub-section (1), the Deputy Commissioner *or Assistant Commissioner* shall appoint the person next in order of succession [according to seniority of age in the senior branch] who is so qualified, *the eldest member of the eldest branch being preferred* and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Temporary disqualification of heir in certain cases.

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Deputy Commissioner *or Assistant Commissioner* may direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of the dismissed or suspended officer; *but in making the selection, the directions contained in sub-sections (2) and (3) shall as far as possible be conformed to.*

Provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under

suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3).

Procedure to be adopted when heir is a minor.

(5) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner or Assistant Commissioner shall register the minor as the [heir] *successor* of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as [heir,] *successor* on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. *It shall be competent to the Deputy Commissioner or Assistant Commissioner to assign to such successor during his minority an allowance not exceeding one half of the emoluments attached to the office.* If the person registered as [heir] *successor* under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner *or Assistant Commissioner* shall fill up the vacancy [as provided] *in accordance with the provisions contained* in sub-sections (2) and (3).

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

[(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office and the Deputy Commissioner does not give the direction referred to in sub-section (4), he shall fill up the vacancy in accordance with the provisions of this section as if it had been caused by the death of the said holder; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended, is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold the office.]

Provision for widows of Shanbhogs and Patels in certain cases.

(6) When the last holder of the office of Patel or Shanbhog has left a widow without male issue, it shall be competent to the Deputy Commissioner or Assistant Commissioner to assign to her a portion not exceeding 25 per cent of the emoluments attached to the office for her

maintenance during her life or until her remarriage. Provided that orders under sub-sections 5 and 6 assigning an allowance shall be liable to be revised at the discretion of the Deputy Commissioner or Assistant Commissioner.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

[(7)] *(9)* When a vacancy occurs in the office of patel, shanbhog, nirganti, toti, or talari of an alienated village, the [proprietor] *holder* of such village shall fill up the vacancy in accordance with the [provisions of the following sub-sections:—] *principles contained in section 8, subject to the confirmation of the Deputy Commissioner or Assistant Commissioner.*

If the appointment be not made by the holder of the village within a reasonable time, it shall be competent to the Deputy Commissioner or Assistant Commissioner to make such appointment.

General qualifications requisite in all cases.

[(1) No person shall be eligible for appointment who—]

[(*a*) is not of the male sex;]

[(*b*) has not attained the age of majority;]

[(*c*) is not physically and mentally capable of discharging the duties of the office.]

Rule of devolution of succession.

[(2) The succession shall be regulated by the ordinary provisions of the Hindu Law: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, lie with the eldest member of the eldest branch of such persons.]

In certain cases person other than direct heir may be appointed.

[(3) Where the next heir is not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession according to seniority of age in the senior branch who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1)].

Procedure to be adopted where heir is a minor.

[(4) When the person who would otherwise be entitled to succeed to an office is a minor, the proprietor shall register the minor as the heir of the last holder and appoint

some other person qualified under sub-section (1) to discharge the duties of the office, until the person registered as heir is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if, on attaining majority, he proves to be disqualified under clause (*c*) of sub-section (1), the proprietor shall fill up the vacancy as provided in sub-sections (2) and (3).]

Succession in the case of offices other than patel, shanbhog, etc.

[8.] *10.* The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari, shall devolve in accordance with the law or custom applicable thereto [at the date on which this Regulation comes into force; or,] *and* in the absence of any such law or custom, in accordance with the provisions of [sub-section (2) of section 6 and sub-section (2) of section 7 so far as applicable.] *Sections 8 and 9 respectively.*

Suits for offices, for recovery of emoluments and for registry as heir.

[9.] *11.* (1) Any person may sue before the Deputy Commissioner *or Assistant Commissioner* for any village office *in an alienated or unalienated village* or for recovery of the emoluments of any such office, on the ground that he is entitled under [sub-section (2) or (3) of] sections [6] *8*, [or sub-section (2) or (3) of section] [7] *9* or [section] [8] *10*, of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner *or Assistant Commissioner* to be registered as [heir] *successor* of the last holder of any such office.

Provided as follows:—

No suit for declaratory decree.

(i) No suit shall be entertained for a mere declaratory decree.

Procedure in case of dispute as to nature of emoluments.

(ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Deputy Commissioner *or Assistant Commissioner* shall decide the claim on the assumption that only the [said] assignment *of revenue* constitutes the emoluments; but such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

Rejection of plaint when claimant is ineligible for appointment.

(2) If, at any time before the completion of the trial of a suit preferred under this section [for any office or for the recovery of the emoluments of any office,] it appears to the Deputy Commissioner *or Assistant Commissioner* that the claimant is not eligible for appointment [under] *on any of the grounds referred to in* sub-section (1) of section [6] *8* [or sub-section (1) of section 7] of this Regulation, [as the case may be,], he shall pass an order rejecting the plaint.

Limitation of time within which suits may be brought.

[10. (1) No suit preferred before a Deputy Commissioner under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising, whether such date be before or after the commencement of this Regulation.]

Limitation in case of minority.

[Provided that, in the case of a person who, by reason of minority, was disqualified for holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.]

Limitation of time within which execution of decree or order may be applied for.

[(2) No application for the execution of a decree or order passed under this Regulation shall be entertained, if made after the expiration of one year from the date of such decree or order.]

Execution of decrees and orders passed previous to commencement of this Regulation.

[(3) Decrees or orders passed previous to the commencement of this Regulation in regard to claims to village offices or the emoluments annexed thereto, may be executed under the provisions of this Regulation; provided that no application for the execution of any such decree or order shall be entertained if made either after the expiration of three years from the date of such decree or order or after the expiration of one year from the commencement of this Regulation.]

Limitation when appeal preferred.

[(4) In cases in which the decree or order sought to be executed was appealed against, the periods of limitation prescribed in sub-sections (2) and (3) shall commence from the termination of the appeal.]

Power of [District] Deputy Commissioner in regard to transfers of suits.

[11.] *12.* The [District] Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner [in charge of a division in the district,] or transfer any suit from [the file of one such] *his own file or that of an* Assistant Commissioner to that of another [or to the file of an] Assistant Commissioner [not in charge of a division], for disposal.

Procedure to be observed in trying suits.

[12. (1) The trial of suits under this Regulation shall be regulated by rules made by Government under section 21 and by the following provisions :—]

Date of hearing to be fixed and parties to be heard.

[(i) A date shall be fixed for the hearing of the suit and the same shall be notified to the parties, who shall be entitled to be heard in person or by agent ;]

Witnesses may be produced or summoned.

[(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness or that any person shall be summoned to produce a document, and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so ;]

Record of proceedings.

[(iii) The officer trying the suit shall record in his own hand a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.]

Obligation to obey summons.

[(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.]

Procedure to be observed in trying suits.

13. The procedure applicable to suits filed under this Regulation shall be the same as that prescribed for formal enquiries in the Land Revenue Code, Regulation IV of 1888, subject to such rules as may be framed under section 23.

Decrees may provide for costs and shall be executed according to rules made by Government.

[13.] *14.* Decrees and orders passed in suits under this Regulation may provide for payment of costs according to such scale and sub-

ject to such rules as may be prescribed by Government under section [21] *23*, and shall be executed in accordance with rules to be made under the said section *and the corresponding provisions of the Land Revenue Code.*

Disposal of suits and appeals pending at commencement of Regulation.

[15. All suits brought and appeals made previous to the commencement of this Regulation shall, after the commencement thereof, be heard and disposed of as if they had been preferred under this Regulation.]

Jurisdiction of Civil Courts barred.

[16.] *15.* No Civil Court shall have authority to take into consideration or decide any claim to succeed to, or to the possession of, any village office, or any question as to the rate or amount of the emoluments of any village office, or except as provided in proviso (ii) to sub-section (1) of section [9,] *11* any claim to recover the emoluments of any such office.

Proviso.

[Provided that, if, in any suit instituted under this Regulation, the defendant has pleaded before the Deputy Commissioner that a Revenue Court has no jurisdiction to entertain the suit, on the ground that no emoluments, as defined in this Regulation, appertain to the office in respect of which the suit is brought, and if, on appeal preferred from the decree in such suit, the appellate authority has decided adversely to such plea, the defendant may, within six months from the date of the appellate decree, institute a suit in a Civil Court to set aside such appellate decree on the said ground and on that ground only.]

Appeal against [order or] *decree or order* of *Assistant Commissioner and* Deputy Commissioner.

[17.] *16.* (1) From every *decree or* order passed *under this Regulation* [by a Deputy Commissioner] *by an Assistant Commissioner*, [under section 4 or 5, and from every decree or order passed by a Deputy Commissioner in a suit preferred under section 9,] an appeal shall lie, [within one month,] to the [District] Deputy Commissioner, [or, if the said order or] *and from every* decree *or order* [was] passed by [the District] *a* Deputy Commissioner, an appeal shall lie, [within three months,] to the [Chief Controlling Revenue authority] *Revenue Commissioner*. The decision, on appeal, of the [District] Deputy Commissioner or the [Chief Controlling Revenue authority, as the case may be,] *Revenue Commissioner*, shall be final.

Second appeal in certain cases.

Provided that, in respect of the offices of patel and shanbhog, a second appeal shall lie, [within three months,] to the [Chief Controlling] Revenue [authority,] *Commissioner* against the decision on appeal of the [District] Deputy Commissioner in suits preferred under section [9] *11* and in cases of dismissal of a village officer under section [5] *7*.

Explanation.— An order passed by the Deputy Commissioner or Assistant Commissioner, under section 9, shall be deemed to be an appealable order.

Appeal against order of Amildar or Deputy Amildar or [proprietor] *holder*.

(2) From every order passed by an Amildar or Deputy Amildar under sub-section (2) of section [5] *7* and from every order passed by a [proprietor] *holder* under sub-section (3) of section [5,] *7* an appeal shall lie [within one month] to the Deputy Commissioner *or Assistant Commissioner*, whose decision shall be final.

Disposal of appeal by officer who passed original order.

[18.] *17*. If the officer to whom an appeal is presented under this Regulation [in the capacity of District Deputy Commissioner or Deputy Commissioner,] happens to be the officer who in another capacity, passed the decision which is appealed against he shall report the fact to the [Chief Controlling] Revenue [authority] *Commissioner* or to the [District] Deputy Commissioner, as the case may be, and the appeal shall be disposed of by the [Chief Controlling authority] *Revenue Commissioner* or [District] Deputy Commissioner, and the order passed on appeal shall be final.

In certain cases Deputy Commissioner may refer question of law to the [Chief Controlling] Revenue [authority] *Commissioner*.

18. [14] (1) If, before or [during] *on* the hearing of a suit under this Regulation or of *an* appeal against a decree or order passed in a suit under this Regulation, *in which the decree is final*, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, [and] *on which* the officer trying the suit or appeal or executing the decree entertains reasonable doubt [on such question,] [he] *the officer* may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the

point on which doubt is entertained and refer such statement *with his own opinion on the point* for the decision of the [Chief Controlling] Revenue [authority] *Commissioner* and shall stay further proceedings until the said decision is communicated to him.

(2) If the officer making the reference to the [Chief Controlling] Revenue [authority] *Commissioner* is not the [District] Deputy Commissioner, the reference shall be made through the [District] Deputy Commissioner.

Procedure to be followed in case of such reference.

Decision of [Chief Controlling authority] *Revenue Commissioner* not to be contested.

(3) The [Chief Controlling] Revenue [authority] *Commissioner* shall, if any of the parties so request, hear him or his *pleader or* agent and shall decide the point referred and transmit a copy of [its] *his* judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the [Chief Controlling] Revenue [authority,] *Commissioner*, and the correctness of the decision of the [Chief Controlling] Revenue [authority] *Commissioner* shall not be contested in any appeal made under this Regulation.

Power to call for records.

19. The Revenue Commissioner in cases in which no appeal lies to him, or the Government may call for the record of any case if the officer by whom the case was decided appears to have exercised a jurisdiction not vested in him by law or to have failed to exercise a jurisdiction so vested or to have acted in the exercise of the jurisdiction illegally or with material irregularity, and may pass such order in the case as the Revenue Commissioner or the Government thinks fit.

Application for review of judgment.

20. Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred;

(b) by a decree or order from which no appeal is hereby allowed;

and who by the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge, or could not be produced by him at the time when the decree was passed, or order made or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason,

desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the officer who passed the decree or made the order or to the officer, if any, to whom the business of the former officer has been transferred.

Dismissal of suits, etc., instituted, etc., after the period of limitation.

21. Subject to the provisions contained in section 22, every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Provided that a suit for registering a minor as a successor to a village office may be brought at any time during the minority of the claimant and provided further that in the case of a person who by reason of minority is disqualified from holding office, the right to sue for such office, or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Suits the cause of action for which accrued before the commencement of this Regulation.

Notwithstanding any thing herein contained, any suit the cause of action for which accrued prior to the commencement of this Regulation may be brought within three years next after the commencement of this Regulation, unless where the period prescribed for such suit by the law of limitation applicable to it hitherto, shall have expired before the completion of the said three years.

Certain sections of the Limitation Act apply.

[19.] *22.* The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, *mutatis mutandis*, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Regulation.

Power of Government to place village watchmen under Police authorities.

[20. The Government may declare that the powers of punishing village officers which are vested in the Deputy Commissioner by this Regulation shall be exercised in any specified local area by the Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or Police officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or Police

officer passed by a Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Deputy Commissioner, whose decision shall be final.]

Government may make rules on certain subjects.

[21.] *23.* (1) The Government may, by notification in the official Gazette, make rules, not inconsistent with this Regulation, in regard to the following [matters] :—

(i) the division, grouping and amalgamation of villages ;

(ii) the holding of enquiries and *other matters coming* under sections [4] *6* and [5] *7*, and the hearing of appeals under section [17] *16* ;

(iii) [the educational qualifications, if any, required of the holders of village offices ;] *matters falling under sections 8 and 9*;

(iv) the action to be taken in respect of any alienation of emoluments contrary to the provisions of section 5 ;

[(iv)] *(v)* the procedure to be followed in disposing of *applications*, suits and appeals [from decrees or orders passed in suits] and the registers to be maintained in connection therewith ;

[(v)] *(vi)* the execution of decrees and orders [passed in suits] and the taxation of costs ;

[(vi)] *(vii)* the emoluments to be assigned to the holders of village offices, and the method of assessment and payment thereof ;

[(vii)] *(viii)* the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them ;

[(viii)] *(ix)* the custody, production and transfer of the accounts and other records kept by holders of village offices ;

[(ix)] *(x)* any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Regulation.

Until such rules are made, existing rules to be in force.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto [immediately previous to the commencement of] *at the time of the passing of* this Regulation shall, so far as they are consistent with this Regulation, be deemed [to be in operation and] to have been made under the preceding sub-section.

SCHEDULE.

Description.	*Period of limitation.*	*Time from which period begins.*
1. *Suit for the recovery of a village office or of the emoluments of any such office.*	*Three years....*	*When the plaintiff is entitled to the possession of the office or the recovery of the emoluments or the date of the order which would become final, if no such suit be brought.*
2. *Appeal to the Deputy Commissioner or Assistant Commissioner.*	*Thirty days....*	*The date of the decree or order appealed against.*
3. *Appeal to the Revenue Commissioner.*	*Ninety days....*	*Do do*
4. *Application for execution of decree or order.*	*One year ....*	*(1) The date of decree or order.* *(2) [Where there has been appeal] the date of the final decree or order of the appellate court.* *(3) [Where there has been a review of judgment] the date of the decision passed on review.* *(4) [Where there has been a revision of the decree or order] the date of the decree or order passed on revision.* *(5) The date of the last application for execution made in accordance with this Regulation.*
5. *Application for review of decree or order.*	*Ninety days....*	*The date of the decree or order sought to be reviewed.*
6. *Applications not otherwise herein provided for.*	*Do ....*	*When the right to apply accrues.*

G.R.S. 26]

File No.

Serial No.

Diary No. of letter replied to XIII

No. 215-226
L.C.

General and Revenue Secretariat
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, *the* 190

To
Sri
Member, Legislative Council

Date of issue 26/11/07

Signed by Mr. K. Mylar Rao

Sir,

I have the honor to forward herewith, under rule 10 of the Rules for the conduct of business of the Legislative Council, a copy of the Report of the Select Committee appointed for the consideration of the Village Offices Bill together with the Bill as amended by the Committee appended thereto.

I have to
Yours
Secy. M.L.C.

SW
26-11-07

over.

SUBJECT.

Noted by
Secy 8
KR.
26/11

XIV

SUPPLEMENT TO

The Mysore Gazette.

PUBLISHED BY AUTHORITY.

BANGALORE, THURSDAY, MARCH 12, 1908.

Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Council Chamber, Public Offices, on Monday the 24th to Friday the 28th February 1908, both days inclusive.

PRESENT.

V. P. MADHAVA RAO, ESQ., C.I.E., Dewan (Presiding).

Ex-officio Members.

T. ANANDA RAO, ESQ., B.A., (First Councillor).
K. P. PUTTANNA CHETTY, ESQ., (Second Councillor).

Additional Members.

Official.

RAJAKARYA PRAVINA A. RANGASWAMI IYENGAR, ESQ., B.A., B.L.
H. J. BHABHA, ESQ., M.A.
RAO BAHADUR M. MUTHANNA, ESQ.
S. NARAYANA RAO, ESQ.

Non-official.

RAJAMANTRA PRAVINA C. SREENIVASIENGAR, ESQ.
V. N. NARASIMMIYENGAR, ESQ.
M. C. RANGIENGAR, ESQ., B.A.
B. NAGAPPA, ESQ., (Bar-at-law).
SYED AMIR HASSAN, ESQ.

ABSENT.

Official.

M. KANTHARAJ URS, ESQ., B.A.

K. MYLAR RAO, ESQ., B.A., B.L. (Secretary).

Bill to amend the Mysore Registration Regulation, I of 1903.

PRESIDENT.—The first business on the agenda paper is the motion for leave being granted to introduce a bill to amend the Mysore Registration Regulation. Mover.—MR. T. ANANDA RAO.

MR ANANDA RAO.—Sir, it is proposed to amend Section 88 of the Mysore Registration Regulation, I of 1903, by the insertion of the words "Deputy Post-master General," after the words "Post-master General." Under this section, the Post-master General of Madras is one of the public functionaries exempted from appearance in person or by agent at any registration office in any proceedings connected with the registration of any instrument executed by him in his official capacity or to sign as provided in Section 58. It has been brought to the notice of Government that the duty of executing leases of Post Office buildings has now been transferred to the Deputy Post-master General and that therefore it is necessary that the Deputy Post-master General should also be similarly exempted in his official capacity. The amendment proposed is not of any consequence. I now beg for leave to introduce the bill.

MR. NAGAPPA seconded the motion and it was put to the Council and carried.

Bill further to amend the Code of Civil Procedure.

PRESIDENT.- The next item of business is the introduction and reading of the bill further to amend the Code of Civil Procedure. Mover.—MR. S. NARAYANA RAO.

MR. S NARAYANA RAO. Sir, under clause 33 of the rules for the conduct of the business of the Mysore Legislative Council, I beg to introduce the bill further to amend the Civil Procedure Code, leave to introduce which was granted at the last meeting of the Council. The bill has since been printed and published with a statement of objects and reasons as required by the rules. It will be remembered that at the last meeting, three of the five clauses contained in this bill, *viz.*, the first, second and fifth, were conceded on all hands to be very desirable ones and that the remaining two clauses, namely, the third and the fourth, were objected to on certain grounds.

In regard to these clauses, I believe there are very good reasons in support of them, and the adoption of these amendments will certainly facilitate the disposal of work in the Chief Court to a great extent. But, as pointed out by one of the members of the Council at the last meeting, in suits relating to assessed lands the suit valuation is based not on the market value but is calculated at five times the assessment. This circumstance probably renders the limit of Rs. 500 fixed in the proposed amendment unduly high, and I am prepared to concede that there may be some hardship in this. The difficulty can be obviated either by lowering the limit or by adopting the British Indian rule that the suit valuation shall depend on the market value. The latter alternative is probably preferable, but it would involve the amendment of the Civil Courts Regulation and this question requires further consideration. On this ground and also in view of the fact that the whole Code of Civil Procedure will, in all probability, have to be shortly remodelled on the lines of the British Indian Bill now under consideration, I do not propose to press these amendments at present. The other clauses of the bill are non-contentious and their adoption need not be deferred. I have therefore obtained the permission of the President to introduce the bill *minus* clauses three and four. The bill will now be taken as consisting only of three clauses numbered 1, 2 and 5. The last mentioned clause will bear No. 3.

Para 2 of the statement of objects and reasons deals with the bill as it is now intended to stand, and I do not think it necessary to add anything more to it to recommend the bill for the approval of the Council.

I now move that the bill as now altered be read in Council.

SECRETARY.—There are two mistakes in the bill as published in the Gazette. In para 1, for the words "in cases in which such sum is *less* than . . ." occurring in clause 1, the words, "in cases in which such sum is *more* than . . ." should be substituted, and the word "not" occurring in clause 2, should be omitted.

MR. RANGIENGAR having proposed that the bill as corrected be taken up, and Mr. ANANDA RAO having seconded the motion for reading the bill, the discussion thereon was resumed.

MR. RANGIENGAR.—At the last meeting, when the motion for leave to introduce this bill was brought forward, I submitted that the amendment of Section 310A as it stands in our Civil Procedure Code was very desirable. At that time I did not know the extent and scope of the amendment which the Government Advocate was going to propose. Now having had the advantage of reading the bill, I find that the amendments proposed are in themselves most unobjectionable. But then, they are not quite adequate to the requirements of the case. Section 310A in our Code is very defective in many particulars, and I was under the impression that the whole section was going to be amended; because, in Section 310A as enacted in Mysore there is one feature which places the section in diametrical opposition to Section 310A of the British Indian Civil Procedure Code. In British India, Section 310A has been incorporated for the purpose of giving the judgment-debtor and persons claiming under or through him a further opportunity of retaining the property sold. In our Code, Section 310A, as it stands at present, provides that it is only the judgment-debtor that can claim that right and no one else claiming under or through him after attachment. Because, what is said in the Mysore Code is, that besides a judgment-debtor, a person who has acquired an interest prior to attachment may apply to the Court for the cancellation of the sale, as also a person who has acquired an interest in the property prior to the decree, where the decree itself directs the sale of immovable property. Now in regard to these two latter classes of persons, no concession need be shown, as the law already gives them a sufficient remedy. Their interests do not require to be safeguarded, as they are not affected either by the decree or the sale. Since the enactment of Section 310A in British India, it has been consistently and uniformly held by all the High Courts that the only persons that can apply under that section are the judgment-debtor and persons who have acquired an interest in the property subsequent to the attachment. But persons who are not bound by the decree or the sale and also those who have acquired an interest prior to attachment remain unaffected, and this section does not apply to them. In Mysore, however, the reverse is the case. They are allowed to come in under Section 310A, and apply to the Court to set aside the sale; but persons who are bound by the decree or sale though not expressly impleaded as parties to the suit and persons who have acquired an interest in the property after attachment will be left without remedy, if they are not allowed to come in under Section 310A and have the sale set aside. I expected that this would engage the attention of the Government Advocate. In the event of this humble opinion of mine commending itself to the Council, the whole section may be recast and a satisfactory conclusion arrived at. I would suggest that the bill be referred to a Select Committee.

PRESIDENT.—I understand that our Section 310A is based upon the amendments suggested in British India by the Select Committee appointed for the consideration of the Civil Procedure Code.

MR. SRINIVASIENGAR.—Anybody interested in the property prior to the decree or attachment may now come before the court and ask for the cancellation of the sale. But Mr. Rangiengar's contention is that anybody claiming to have acquired an interest in the immovable property after attachment should have the privilege. That is the law in British India. The wording of the Code in force in British India is "Any person whose immovable property has been sold under this Chapter may at any time within thirty days from the date of sale apply . . ." The judgment-debtor and persons acquiring an interest in the property after attachment come under this category. Any person whose immovable property has been sold can have the sale set aside. Mr. Rangiengar means that not only the judgment-debtor and the person holding an interest therein by virtue of a title acquired prior to attachment should have that right, but also a person who acquires an interest after attachment. We are following the later recommendation of the Select Committee.

MR. RANGIENGAR.—The sale after attachment is not void altogether. It is perfectly good, only it does not take effect against any claim enforceable under the attachment. In all other respects it is perfectly right. The British Indian Legislature recognizing this fact enacted that, even a person who has acquired an interest after attachment can apply to the court within thirty days of sale, pay the money and

have the sale cancelled. By the law as it stands in British India at the present moment, (I am not speaking of the recommendations of the Select Committee), a person having an interest prior to attachment cannot come under the section; because, he has got a remedy elsewhere, and it is only a person acquiring an interest subsequent to the attachment that can come under the section. In the case of the judgment-debtor, both the British Indian and Mysore Codes have provided that he can come and apply to the court to have the sale set aside. The question is, when the judgment-debtor cannot pay the money but asks a relation of his to pay it on the mortgage of the property. It is only then that difficulty arises. It is for the purpose of helping the judgment-debtor that this section was introduced into the Civil Procedure Code. As the law stands here, in Mysore, a person who has acquired interest in the property after attachment cannot come in. That, I beg to submit, is a variation from the British Indian Code.

PRESIDENT.—Then there is a proposal to amend the bill. This may be referred to the Select Committee. Who seconds this proposal?

MR. NAGAPPA.—I second it.

MR. NARAYANA RAO.—I propose that Messrs. C. Srinivasiengar, A. Rangaswami Iyengar, Rangiengar and myself be members of the Select Committee.

The bill was then referred to a Select Committee consisting of the above members.

Bill to amend the Stamp Regulation, II of 1900.

PRESIDENT.—The next business on the agenda paper is the consideration of the bill to amend the Stamp Regulation, II of 1900.

MR. RANGASWAMI IYENGAR.—Last time I submitted to the Council that the provisions of the bill being those already existing in the corresponding British Indian enactment, it was unnecessary to refer it to a Select Committee. The bill was accordingly adjourned for consideration at a subsequent meeting. I have only to propose at this meeting that the provisions of the bill be considered and passed. Mr. Rangiengar approved of the measure in every respect excepting one clause, with reference to which he said there was some ambiguity. He said that the expression "any instrument recording whether by way of declaration of trust or otherwise" occurring in the definition of "Settlement" was rather indefinite, and that it was necessary to make it more clear. But we have only borrowed the words as they are in the British Indian Act, and I take it that the intention of making such a provision is to prevent the evasion of payment of stamp duty in cases of such settlements by making an oral settlement and referring to it in an instrument subsequently executed for other purposes. Where such oral settlements are referred to, the effect of this provision will be to subject them also to stamp duty. I do not think that it is necessary to make any addition to the clause as it stands. Mr. Nagappa said that some of the suggestions made by Dr. Smeeth in connection with mining leases might be discussed in Council. I reserve my comments until Mr. Nagappa makes his remarks.

MR. RANGIENGAR.—So far as my suggestions are concerned, I am perfectly satisfied that as the section stands at present, it does not require any amendment. The word "instrument" is a word well understood, and it is also defined in the Stamp Act. I do not think we need interfere with the section as drafted by the learned mover of the bill. The bill may be passed as it stands.

MR. NAGAPPA.—I do not press the proposals of Dr. Smeeth. The section may be adopted as framed by the mover.

MR. SRINIVASIENGAR.—It is proposed that in the case of a mining lease, the stamp fee to be paid should be calculated on the amount of royalty or value of the share of produce, and such amount or value in the case of leases granted by Government should be estimated by the Deputy Commissioner and in the case of leases granted by any other person at Rs. 20,000 a year. If the value is taken to be Rs. 20,000, the stamp duty comes to Rs. 200, and this may work hard upon the poorer lessees. The remedy proposed however does not seem quite suitable. How is the Deputy Commissioner to form his estimate of probable income? After the lease is granted, we cannot say what developments may take place. The Revenue Officials have to

proceed upon assumptions and fix the amount. That comes before the Deputy Commissioner for adjudication, and he will not have sufficient materials for deciding the question. I think the stamp duty of Rs. 200 will be too much, and it may be fixed once for all at less than that sum. This question seems to have been left open, and I suggest that it may be considered now.

MR. RANGASWAMI IYENGAR.—In all mining leases, there are two or three provisions in connection with the rent and royalty payable. One is that they have to pay a rent of one rupee per acre, in addition to the royalty fixed according to a certain percentage on the ore collected. There is another provision that, where the Government is not satisfied with the working, they have a right to fix an additional rent not exceeding Rs. 5 an acre. That would mean about Rs. 3,200 a year when a plot of land granted for mining purposes consists of 640 acres, or a square mile. In all leases, as was pointed out by Mr. Srinivasiengar, it is very difficult to say what the probable output of mining material may be and what income or royalty will become due to Government in any year, and it is quite possible that the Deputy Commissioner will have no satisfactory materials to go upon. In fact, even the lessees themselves may not be in a position to say what income they may be able to derive. But my own idea was that, if we leave the fixing of the royalty or the value of the share to the discretion of the Deputy Commissioner, the Government may by executive orders lay down instructions by the help of which the amount may be fixed. If this view is accepted, there is no necessity for making any alteration in the bill as it stands. But if it is considered desirable to make a provision, then the utmost that can be claimed by way of rent is Rs. 3,200 a year for a square mile, even if the lessees fail to work up the property properly. And we need only add a provision to say that where there are no satisfactory materials for fixing the income to Government in a year, it need not exceed Rs. 3,200; because, in all cases, the stamp duty is the same as on a sale deed for a consideration equal to the amount or value of the average annual rent reserved. If Rs. 3,200 be taken as one year's rental, it would be cheaper. (Rs. 3,200 is the amount that can be collected annually. This is the maximum amount.) So we have got some data to go by. It is the penalty which the company is made to pay in case the property is not properly worked and no royalty is paid to Government. That provides a standard by which the Government can go by. We are now discussing a case in which we are not able to estimate the royalty and where the royalty may be very low. It cannot be worse than zero, and even then, the Government have the right of getting Rs. 3,200.

Under these circumstances, I would recommend that the bill, as it is, be allowed to be passed, and if not, we might say that the amount need not be fixed at more than Rs. 3,200, unless there are definite data on which a fair estimate may be made with reference to similar properties worked by other companies in the neighbourhood. If, for instance, there are a number of blocks given out elsewhere and the parties have estimated the probable output and have agreed to pay stamp duty, there is no reason why we should not be guided by it. Again, there may be a case in which an expert, after examining the grounds, is able to estimate what quantity of mining material, ores, etc., can be excavated and what profit can be expected; or the lessees themselves may be able to furnish information and prospectuses. In such cases, there is no reason why we should not accept their valuation. Otherwise, a minimum may be fixed by Government.

MR. SRINIVASIENGAR.—I agree with Mr. Rangaswami Iyengar's opinion.

MR. NAGAPPA.—If executive orders be passed by Government from time to time in this behalf, I think that it will meet the requirements of the case.

MESSRS. SRINIVASIENGAR and RANGIENGAR.—The bill as framed may be passed.

The Council having been unanimously in favour of the bill, the President said that it may be taken as passed.

The Village Offices Bill.

PRESIDENT.—The next subject is the Police Bill, which Mr. Puttanna Chetty is in charge of. But he proposes to take it up later on. We will now deal with the Village Offices Bill. I think we may take up the amendments in the order of the

sections to which they refer. Mr. Nagappa's amendment refers to the very title of the bill.

TITLE AND PREAMBLE.

MR NAGAPPA.—Sir, it is necessary to add the word "Hereditary" before the words "Village Offices" in order to express more fully the scope of the enactment. Most of the provisions of this bill are adopted from the Madras Act III of 1895 and the corresponding Bombay Act. The term "Hereditary" is used in both these Acts, and there is apparently no reason assigned as to why this word is dropped in the title of the bill. Hence I propose that the word "Hereditary" be added before the words "Village Offices."

The preamble in any enactment usually states the general object and intention of the Legislature. It is a key to the understanding of the whole enactment. It is often consulted for the purpose of solving any ambiguity, for determining the meaning of words which have more than one meaning, and for interpreting the scope of the Act wherever the enacting part is in any of these respects open to doubt. It generally sets out the reason for the enactment and the mischief or inconvenience it seeks to remedy. In a word, the function of the preamble is to explain what is ambiguous in the enactment. The objects of this bill may be stated generally to be *first*, to recognize the hereditary principle in the disposal of claims to village offices; *secondly*, to prescribe the qualifications requisite for appointment as village officers; *thirdly* to define the powers of Revenue Officers as regards the appointment, removal and suspension of village officers; and *fourthly*, to lay down the procedure for the trial of suits, etc. Hence I propose this amendment for the alteration of both the title and the preamble.

As I said, the word "Hereditary" is found in the title of both the Madras and Bombay Acts. The preamble of the present bill contains the word "Hereditary," and so do some of its provisions, as for instance, the definition of "Village office," etc. There is no reason why it should be dropped from the title of the bill. If it is inserted as proposed, it will have the effect of explaining that we adhere to the recognition of hereditary right and that we have not in any way departed from the hereditary principle hitherto followed.

MR. RANGIENGAR.—I beg to second the proposal without, however, committing myself to the reasons submitted by Mr. Nagappa.

I think it is desirable that heredity should be given prominence to in the bill. When the Select Committee discussed the bill, it was proposed to add the word "Hereditary" but it was thought not necessary, and the learned Revenue Commissioner drew my attention to the fact that in this bill, references are made to appointments which are purely temporary, as for instance, appointment made by an inamdar for a certain period of time, appointments made by Government only for a temporary period or during the lifetime of a particular individual, etc. With all this explanation, it seems to me that it is desirable to insert the word "Hereditary" in the title of the bill, inasmuch as this Act is intended to govern the relations of village servants who hold office hereditarily under Government. Then the preamble also, I submit, may be amended, as proposed by Mr. Nagappa.

MR. ANANDA RAO.—There is a provision in the Land Revenue Code, Section 14, in which it is stated that stipendiary patels and village accountants may be appointed where no hereditary patel or village accountant exists. When this point came up for discussion in the Select Committee, it was pointed out that in such cases the use of the word "Hereditary" would be inappropriate, as the person appointed did not get the office by heredity, though the office might descend in his line after his death. So the present title is of a wider application than the other. Again, I don't see any advantage in inserting the word "Hereditary." And as to the preamble, my own impression is that the value attached to it is very little and that it forms no part of the Act.

MR. SRINIVASIENGAR.—I am of the same opinion. If the word "Hereditary" is added, the title would be inappropriate, as the bill applies also to offices which are not hereditary. So, I think, we need not complicate matters by the addition of the word. There is evidently an impression abroad that the hereditary nature of the offices is being detracted from by the legislation before us, but it has been distinctly explained to all concerned that no such intention is in the mind of the Government.

That being so, the more comprehensive expression used in the bill may stand. The insertion of any additional word seems unnecessary.

As regards the preamble, I doubt whether it would be possible to include in it the manifold provisions contained in an extremely difficult piece of legislation such as that now under consideration. The safest plan in such cases is, to my mind, to make the preamble as short and comprehensive as possible, so that there may be no omissions. I am not sure if Mr. Nagappa's amendment itself will be exhaustive. It is plain that he himself feels that he is not sure of his ground, and accordingly adds the words "and other purposes." Surely, a preamble worded so indefinitely as that cannot enhance the value of the enactment in any way. The wording, as it is, seems to me to meet all cases. The insertion of the word "Hereditary" in the title of the bill is not of much consequence, and though I don't say I am opposed to the proposed amendment, I say it is immaterial and may prove mischievous.

MR. RANGASWAMI IYENGAR.—In this connection, I wish to say that the Madras Act does not apply to all village officers. Section 3 thereof says: "It shall apply only to hereditary village officers who hold emoluments in land. . ." and the policy in Madras and elsewhere has been to exclude ordinary karnams and village officers who are appointed by Government, whereas the proposed Regulation is intended to deal with all kinds of village officers, not only those who have been holding the offices by hereditary right but also village officers who have been recently appointed and in whose cases the claim of heredity is not admitted: there are cases in which the appointments recently made do not carry with them the right of heredity. In this way it would be a mistake to say "Hereditary Village Offices" and if we do so, we shall not be able to deal with such offices properly.

MR. NAGAPPA.—In reply to the Revenue Commissioner, I beg to point out that "Village Office" is defined to mean "every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of revenue." So, if a new man is appointed, in whatever form he may be paid, he becomes a village servant. In the case of persons appointed by Government, their offices, I take it, become hereditary unless they are excluded from the operation of this Act. The office of any new man who enters the service becomes hereditary. That, I think, is the intention of the legislature. In order to make it plain that such a person also comes within the Act, I would add "Hereditary" and make the preamble more explicit. In all well-drawn enactments, we find generally the objects and reasons stated fully in the preamble. It is often consulted by a judicial interpreter in solving any ambiguity. Such being the case, I don't see why my amendment should not be accepted.

MR. C. SRINIVASIENGAR.—Here, for instance, is the Civil Procedure Code which is admitted to deal with very weighty and complicated matters in which the preamble is very briefly stated. You cannot set out the whole subject in it.

MR. NAGAPPA.—Here is a book by Maxwell on Interpretation of Statutes, which contains the following:—"The preamble is the key to the understanding of an Act, and as it usually professes to state the general object of the legislature in passing the enactment, it may be legitimately consulted in solving any ambiguity or fixing the relation of words or keeping the effect of the Act plain. In a word, it is to be taken as a fundamental principle standing, as it were, at the threshold of the whole subject of interpretation, that the intention of the legislature is invariably to be accepted and carried into effect whatever may be the opinion of the judicial interpreter of its wisdom or justice."

The intention of the legislature is to be expressed in the preamble, and that will be a key to the understanding of the whole enactment. No doubt, as the learned mover said, the title does not form part of the enactment. These are the later decisions. The preamble must generally set out the object of the bill. My proposed amendment is taken from the Madras Act. The words "certain other purposes" are not my own, but are borrowed from it. The preamble must be so explicit as to contain the main objects and reasons of the proposed bill, and there is no reason why it should be as short as has now been adopted. As soon as this Regulation is passed by the Council, it becomes law, and all the rules and existing orders will thereby be repealed. This will be a fresh law. Hence I say we must be specific.

PRESIDENT.—We recognize the hereditary principle with regard to village offices. We may create a new office or introduce a stranger to an office already existing, but the succession in either case is hereditary. So I think we may adopt Mr. Nagappa's amendment as regards the title of the bill.

MR. K. P. PUTTANNA CHETTY.—No temporary appointment can have that hereditary character.

MR. V. N. NARASIMMIYENGAR.—Because the word "Hereditary" is omitted from the title and the preamble, does the office cease to be hereditary? The principle underlying the law is not altered.

MR. K. P. PUTTANNA CHETTY.—Mr. Nagappa merely voices the opinion of the people who seem to think that the hereditary nature of the village offices is interfered with by the present Regulation. In order to reassure the people, Mr. Nagappa proposes that the word "Hereditary" should be inserted in the title and it may be done.

PRESIDENT. There is no harm in doing so.

MR. C. SRINIVASIENGAR.—It is not an acknowledged principle, I think, that all village offices are necessarily hereditary. They do not become such unless that character has been acquired by long enjoyment.

MR. M. C. RANGIENGAR.—Clause 8 is very clear on the point. "When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions of the following sub-sections and going to sub-clause (2), it is stated that "the succession shall be regulated by the ordinary provisions of the law applicable to the last holder."

It is not said that the holder himself should have held the office from a long line of successors.

MR. A. RANGASWAMI IYENGAR.—As it is now, there have been appointments not considered as hereditary.

MR. SYED AMIR HASSAN.—Is there any objection to specify them?

MR. T. ANANDA RAO.—In regard to the Amrut Mahal Kavals, I have some recollection that those appointed in that connection are not hereditary; and also some appointed for coffee estates.

MR. A. RANGASWAMI IYENGAR.—Hereditary character is not attached to an office unless it is held for at least one generation.

MR. T. ANANDA RAO.—A statutory patel becomes such only if he holds office for at least one generation and before that he cannot be fined, etc., under this Regulation.

PRESIDENT.—The Revenue Code itself makes provision for officers who are stipendiary in villages where no village accountant or patel exists. Section 14 says:—"In villages where no hereditary patel or village accountant exists, it shall be lawful for the Deputy Commissioner, under the general orders of the Government and of the Revenue Commissioner, to appoint a stipendiary patel or village accountant, who shall perform respectively all the duties of hereditary patels or village accountants as hereinafter prescribed in this Regulation, or in any other law for the time being in force, and shall hold their situations under the rules in force with regard to subordinate revenue officers." Until the office becomes hereditary, he will be subject to the same rules and to the same discipline as are applicable to revenue officers; so the case of such patels is taken out of the present bill. I think that as far as appointments in Mysore are concerned, the general character is one of a hereditary nature; and the adoption of the word "Hereditary" in the title and the preamble would not affect the provisions of the Regulation.

MR. B. NAGAPPA.—There is an amendment to specify the classes of village offices to which this bill shall apply. Appointments which are not hereditary may be brought as an exception thereunder.

PRESIDENT.—We shall take the sense of the Council.

Mr. Nagappa's amendments being put to the Council were lost, votes being 2 *for* and the rest *against*.

CLAUSE 1, SUB-CLAUSE (2).

PRESIDENT.—We proceed now to the next amendment,—clause 1, sub-clause (2).

MR. B. NAGAPPA.—I beg to withdraw it as provision is already made by the Select Committee in clause 21, para 3.

CLAUSE 2.

PRESIDENT.—The next amendment is the addition of the following sub-clause after clause 2.

MR. NAGAPPA.—The amendment which I beg to move is :—

"It shall apply to the following classes of village offices, provided that emoluments have been attached thereto :—

Class of village offices to which it applies.

1. Gowda or Patel—headman of the village.
2. Shanbhog—accountant.
3. Kulavadi *alias* toti—the watchman of the village.
4. Nirganti—regulator and distributor of water for the fields.
5. Talari."

I may be permitted to slightly alter this. The proposed addition may be taken as sub-clause (2) and the present clause 2 may be taken as sub-clause (1). Just as in clause 1 there are sub-clauses (1), (2) and (3), we can have separate sub-clauses in clause 2 if my suggestion be adopted.

In proposing this amendment, I beg to bring to the notice of the Council the necessity for inserting such a clause. It is very essential to enumerate the classes of village officers to whom the bill applies. The village establishment is composed of not less than 12 officials. The definition of village officer as given in the bill is so extensive as to comprise the various officers mentioned in Appendix I, page 61 of the Revenue Manual.

It can hardly be the intention of the legislature that the provisions of this bill should apply to the *madiga*, the *agasa*, the *nayinda*, the *kabbinadava*, the *kumbara* and the *badagi*. Whatever might have been the functions of these persons in olden days, they have no place whatever in the present day administration of revenue affairs. In this connection, I cannot do better than quote the opinion expressed by the Second Councillor, Mr. K. P. Puttanna Chetty, the then Deputy Commissioner of Kolar. [*Vide* page 15 of the compilation of papers relating to the Draft Village Offices Regulation.] The definition of "Village office" appears to have been borrowed from the Bombay Act III of 1874; but the definition is so vague that doubts arose, and both the Government and the High Court of Bombay had to decide if the village offices of carpenter and *khazi* were village offices within the meaning of the term. With a view to obviate such doubts and difficulties, I propose the present amendment which enumerates the classes of village officers to which this Regulation applies.

MR. T. ANANDA RAO.—As a small contribution to the discussion on this point, I may point out that the term "Village office" is defined to be one held for the performance of duties connected with the administration or collection of revenue and then comes the provision that Government may exclude any office from the definition. In cases of doubt, Government will decide. So the bill makes ample provision.

MR. V. N. NARASIMMIYENGAR.—The *Barabaluti* have been divided into two classes, those that render service to Government and those that render service to the village community. It is only the first class of village servants that comes under the head of "Village officers." The emoluments of the others, whatever they were, I believe, have been enfranchised. This principle has been observed in the Inam settlements, and they are no longer in existence. Only the patel, the shanbhog, the toti, the nirganti and the talari are now recognised. Of course, the last two are differently named in different places. With the exception of these five, the emoluments of the seven others, *viz.*, the joisa, etc., have been enfranchised by the Inam Department, and they no longer form part of the *Barabaluti*. They may perform their functions privately and get remunerated by the villagers, but Government does not recognize their mirasi. So the village officers, properly so called, are those enumerated by Mr. Nagappa himself and none others.

MR. C. SRINIVASIENGAR.—It is possible there may be others. So it may be left to the Government either to add to, or subtract from, the list. There is no object in circumscribing the list.

MR. NAGAPPA.—But to get an expression of opinion from Government, the poor litigants will have to undergo considerable hardship.

MR. SRINIVASIENGAR.—The five names mentioned by Mr. Nagappa are specifically mentioned in the bill. In the case of the other offices, the Government reserve to themselves the power either to retain or to cancel them as they deem fit.

The amendment of Mr. Nagappa not being seconded was lost.

CLAUSE 4.

PRESIDENT.—The next amendment is that proposed by Mr. Rangiengar. It is that a definition of the word "holder" be added in clause 4, and that it be defined as follows :—

"HOLDER OF AN ALIENATED VILLAGE.—'Holder of an alienated village' means either the sole proprietor of the village, or if there are more persons than one entitled to the village, either jointly or severally, in equal or unequal shares, whoever is appointed as holder of the village for the purpose of this Regulation by all such persons intimation whereof is given in writing to the Deputy Commissioner. If such appointment is not made and intimated or if the persons so entitled to the village do not agree in making the appointment, the Deputy Commissioner shall declare who among them the holder of the village is for the purposes of this Regulation."

MR. RANGIENGAR.—Originally, the word "proprietor" had been used in the bill. I don't think the word "holder" is defined anywhere. In the case of village officers, we find in the bill certain powers conceded to holders of alienated villages. In the case of the sole proprietor, there is no difficulty. But it often happens that there are a number of co-sharers in the village, and the difficulty will arise only then. In order to obviate any such difficulty that might arise, I propose that the word "holder" may be defined so as to require the holders themselves to nominate one who may be recognised as such, or if they don't agree, to empower Government to nominate one.

MR. NAGAPPA.—I beg to second the amendment. In doing so, I wish to bring to the notice of the Council several complaints made by co-sharers of a village. They are not always unanimous in the choice of the holder; and it is very desirable that one of them should be appointed holder for the purpose of exercising the powers vested in a holder by this Regulation.

MR. SRINIVASIENGAR.—The provisions of this bill deal with village offices in both alienated and unalienated villages. The holder of an alienated village comes in, in connection first with the punishment of village officers, and secondly with the appointment of village officers. The question is, who is the man that should make appointments in alienated villages and who is competent to punish? These are the only two matters to be considered. The definition as proposed by Mr. Rangiengar will not meet sufficiently the object in view. When we come to the chapter on punishments and appointments, it will be seen that there are certain powers proposed to be conferred upon holders of alienated villages. In that connection, we may say that persons who are specially recognised and declared by Government or by the Deputy Commissioner as holders may exercise those powers.

MR. RANGIENGAR.—I respectfully submit that unless we define the word "holder," no good purpose will be served by declaring that certain individuals who are specially recognised by Government or Deputy Commissioners should have those powers. Such a provision will also to a great extent take away from the dignity and importance of the holder of an alienated village. The Deputy Commissioner may recognise any person he likes and till the Deputy Commissioner recognises some one as holder, no holder can exercise the powers conferred by this Regulation.

MR. SRINIVASIENGAR.—The powers given are very small, and so I said we may consider them afterwards.

MR. RANGASWAMI IYENGAR.—I find that the word "holder" is defined in the Land Revenue Regulation. It is used further on with reference to alienated villages.

So the holder of an alienated village referred to, would be the man who comes under the provisions of the Land Revenue Regulation, Section 99. It cannot be said that the word has not a clear meaning attached to it. There may be some difficulties in working this provision. The holders must recognise a particular individual for the purposes of this Regulation. The rules to be framed under the Regulation may make the necessary provision in this respect. It does not seem necessary to mention all that in the Regulation itself.

MR. NAGAPPA.—I beg to say that the word "Holder" is proposed to be defined only for the purposes of this Regulation. "Holder" is that person who has been appointed by the shareholders themselves or one appointed by the Deputy Commissioner.

PRESIDENT.—Mr. Rangiengar's objection is that the status of the holder is not recognised and he is not given a proper place by a definition. But Mr. Rangaswami Iyengar meets that objection by saying that he is already defined in the Land Revenue Regulation and Mr. Srinivasiengar says that when we deal with the section of this bill under which powers are proposed to be conferred on the holders of Inam villages, we may there indicate who the holder shall be.

MR. NAGAPPA.—If that is so, I have no objection.

MR. RANGIENGAR.—I withdraw the amendment after the explanation given.

PRESIDENT.—The next amendment is from Mr. Syed Amir Hassan about the expression "Assistant Commissioner."

MR. SYED AMIR HASSAN.—I beg to move that the words "Sub-Divisional Officer" be substituted for the words "Assistant Commissioner" wherever they occur in the bill, as the group of taluks in charge of an Assistant Commissioner is now called a "Sub-Division."

MR. SRINIVASIENGAR.—The definition of "Assistant Commissioner" given in the bill may not stand the test of scrutiny. Any other Assistant Commissioner may not be an Assistant Commissioner for all purposes, but only for a particular purpose. So, we may say that, in regard to the cases referred for disposal, he shall be "Assistant Commissioner."

What the Select Committee has suggested is good. But the Assistant Commissioner who is not in charge of taluks should be an Assistant Commissioner only for this purpose, much limited in scope. Throughout the Regulation, the word Assistant Commissioner is used. But it does not include the Assistant Commissioner referred to here. The addition is made only for a limited purpose. So that, there are three classes of officers,—Deputy Commissioner, Assistant Commissioner in charge of a Sub-Division and an ordinary Assistant Commissioner who can exercise the powers of an Assistant Commissioner under this Regulation only in cases referred to him by the Deputy Commissioner. The Assistant Commissioner here is only for a particular purpose. This intention is not sufficiently expressed. I propose that the words "in so far as such cases are concerned" be added after "disposal." I think this would be an improvement on Mr. Syed Amir Hassan's amendment.

MR. SYED AMIR HASSAN.—I beg to withdraw my first motion and second Mr. Srinivasiengar's amendment.

The sense of the Council was taken, and this was agreed to be adopted.

CLAUSE 6, SUB-CLAUSE (2).

PRESIDENT.—Next comes Mr. Nagappa's amendment to clause 6, sub-clause (2).

MR. NAGAPPA.—The amendment I beg to propose is that a semi-colon be substituted for the full stop at the end of this sub-clause and the following words be added, "provided that preference shall be given to the holders of the office which carried the highest emoluments."

The provision contained in clause 6, sub-clause (1), regarding the grouping, amalgamation or division of villages is a drastic measure resulting in the abolition of a hereditary village office and the dismissal of the holder of such office. At the same time, it may be necessary for the efficiency of the village service to resort to such a measure. It is only equitable in such cases that the hereditary right of the holder of the office carrying the highest emoluments before the amalgamation should be

preferred to the rights of the other holders whose offices carried smaller emoluments. We find from the records very few instances of such abolition of hereditary village offices.

When the Government found it necessary to abolish an existing village office, the holders of such offices were invariably compensated for the loss they sustained. In the year 1878, the services of surplus sarkari shanbhogs were dispensed with, their Inams were treated under clause F of Rule VIII of the Inam Rules, and confirmed on a quit-rent which was fixed at half the assessment (*vide* Order No. 10699-229, dated Bangalore, 7th March 1878). When the Government thought fit to abolish the office of Magani shanbhogs and Nadigs in the year 1879, the former were placed in charge of new villages created in the reorganisation scheme and the umbli lands of the latter were enfranchised on half quit-rent under clause F of Rule VIII of the Inam Rules (*vide* Order No. 1615—R. 56, dated Bangalore, 17th May 1879).

Thus the policy of the Government was not to deprive entirely the hereditary right of any holder of the office whose services were no longer required without any compensation being given to him. Though it is not intended to provide for any compensation for the loss of hereditary right, this amendment only provides for equitable treatment at the hands of the authorities by recognition of such hereditary rights.

I propose that if there are two villages with two offices before the amalgamation, one carrying greater emoluments and the other smaller, when they are amalgamated, the holder of the office whose emoluments were greater may be preferred. So, I say that preference shall be given to the claims of such holders by the Deputy Commissioner. If the Deputy Commissioner finds that he is inefficient he may dispense with him. This may be one of the points for consideration by the Deputy Commissioner.

PRESIDENT.—The motion is not seconded.

MR. RANGASWAMI IYENGAR.—In this connection, I would suggest that power be reserved to Government to lay down certain rules. The words "subject to the rules prescribed by Government" or, "as from time to time may be made in this behalf" may be added after the words "Assistant Commissioner shall." Section 23 is very exhaustive and refers to every part, and we may make provision for rules being framed in this behalf.

MR. NAGAPPA.—After "shall," the words "subject to the rules made in this behalf under Section 23" or "with reference to rules. . ." may be inserted.

MR. RANGASWAMI IYENGAR.—You must say in the rules what the qualifications to be taken into consideration by Government are. These are only general provisions.

MR. NAGAPPA.—The clause may be read like this:—
shall "subject to rules made in this behalf under Section 23" select a person, etc. . . .

PRESIDENT.—The length of enjoyment of the office, largest emoluments, best educational qualifications and the community to which the man belongs—all these considerations will weigh with the Government in the selection of the man. Rules will have to be framed to guide the Deputy Commissioner in the exercise of his discretion. The amendment may accordingly be "shall select the person whom he may consider the best qualified under rules made in this behalf by Government under Section 23."

MR. ANANDA RAO.—Or it may be like this: "shall subject to such rules as Government may make in this behalf under Section 23."

MR. NAGAPPA.—I withdraw my amendment in favor of this.

The amendment proposed by Mr. Ananda Rao was put to the Council and carried.

CLAUSE 7, SUB-CLAUSE (1).

PRESIDENT.—The next amendment is Mr. Rangiengar's, about the non-residence of a village officer within the limits of his charge.

MR. RANGIENGAR.—Sir, I beg to move that the words "in cases in which such non-residence has not been permitted in writing by the Deputy Commissioner in

accordance with rules made by Government under Section 23 of this Regulation" be inserted after the words "for non-residence in the village." There may be special cases in which the residence of a village officer within his charge may not only be not practicable but positively inconvenient. In such cases, if the village officer obtains the permission of the Deputy Commissioner, he should not be made liable to any punishment. If he resides outside his charge without such permission, then alone he may be made liable.

MR. NARASIMMIYENGAR.—I second Mr. Rangiengar's amendment. Unless this is specified in the Regulation, Deputy Commissioners are likely to worry the patels.

MR. RANGASWAMI IYENGAR.—I think it is better to leave the section as it is.

MR. C. SRINIVASIENGAR.—Mr. Rangiengar wants power to be given to the Deputy Commissioners to authorize non-residence in exceptional cases. I agree that this is desirable. The words "in cases in which such non-residence is not permitted by the Deputy Commissioner" may be added after "non-residence in the village."

After further discussion the Council resolved to insert the expression "except when such non-residence is permitted by the Deputy Commissioner." after the words "for non-residence in the village."

CLAUSE 7, SUB-CLAUSE (2).

PRESIDENT.—The next amendment is that proposed by Mr. Nagappa in clause 7, sub-clause (2).

MR. NAGAPPA.—The amendment I propose is that the following be added as another sub-clause to clause 7.

"The maximum amount of fine imposed upon any holder of a village office under sub-section (1) shall not exceed his half-year's emoluments and that under sub-sections (2) and (3) shall not exceed his three months' emoluments."

The proposed amendment may conveniently be added as a distinct sub-clause after sub-clause (3) and numbered as sub-clause (4), and the present sub-clause (4) may then be numbered as sub-clause (5).

All the existing rules and orders, if any, fixing the maximum amount of fine to be levied by the Deputy Commissioner or other Revenue Officer, will be repealed by the passing of this bill. The Government have not specifically been authorized under clause 23 of the present bill to frame rules in this behalf. It is, therefore, necessary for a clause to be inserted fixing the maximum amount of fine. Hence I propose this amendment.

I beg to invite the attention of this Council to the opinions expressed by the Second Councillor, Mr. K. P. Puttanna Chetty, when he was Deputy Commissioner of Kolar and also by Messrs. M. Narayana Rao and Thyagaraja Iyer, published at pages 3, 16 and 19 of the printed collection of papers relating to the Draft Village Offices Regulation.

MR. RANGASWAMI IYENGAR.—It does not seem necessary to limit the fine.

MR. NAGAPPA.—Then it may extend to a year's emoluments. In such cases, it is necessary to fix the maximum; and I think such a clause is necessary. By the passing of this Regulation, all the existing rules on the subject will be repealed.

PRESIDENT.—Is there any restriction in Madras or Bombay?

MR. NAGAPPA.—I think it is one-third or three months' emoluments.

MR. RANGASWAMI IYENGAR.—I propose to omit this here and bring it in the rules to be framed under Section 23.

PRESIDENT.—I rather think we may adopt it so as to cover all the sub-clauses. But I wish to know whether the power given to holders of alienated villages to fine is an innovation.

MR. RANGIENGAR.—In Madras, an official member represented before the Select Committee that such a power should be given to the holder; but the non-official members rejected the proposal mainly on the ground that there was no fund to which the fine could be remitted. It was also urged that it would be an incentive to the holder of the village to fine his own servant and swell his pocket.

PRESIDENT.—So, this question came before the Madras Legislative Council and was lost.

MR. NAGAPPA.—I suggest that the addition proposed by me may form a distinct sub-clause.

MR. SRINIVASIENGAR. The holder can fine all the village officials and the question is whether he should have such power of fining. In some cases, there may be many holders who may not come to an agreement on this point. So, I suggest that the selection of the holder who may be invested with this power should rest with Government rather than with co-sharers.

MR. PUTTANNA CHETTY.—The opinion of the majority of the inamdars may be taken into consideration in appointing the holder. The difficulty all along has been that the holders of villages cannot enforce any authority with regard to patels and shanbhogs. Very often, the accounts are not properly kept by the shanbhogs, and the jodidar or inamdar is helpless. So some disciplinary power must be vested in the holder so as to enable him to get the work properly done.

MR. RANGIENGAR.—To my knowledge, the inamdar has absolutely no control.

PRESIDENT. I think we should be meeting the interests of all by adopting Mr. Srinivasiengar's suggestions; that is, by selecting the holders who can be trusted with the proper exercise of this power. That will be an incentive to inamdars to properly qualify themselves for being entrusted with it, and to give guarantee to Government of their being able to use it well and not to abuse it; of course, the choice will fall on the best man.

MR. NARAYANA RAO. The difficulty is how the fine can be recovered.

MR. RANGASWAMI IYENGAR.—The general idea is that the shanbhogs have got a certain amount of potgi. The Deputy Commissioner can treat the fine as a revenue demand and credit it to the fund of the village.

I would vote for Mr. Srinivasiengar's amendment. We may confer this power only on holders of big villages and leave the cases of officials in other villages to the Amildar to be dealt with on complaint of the holder. The powers may be conferred according to individual cases.

PRESIDENT.—Mr. Srinivasiengar will please draft an amendment which will cover all cases and place it before the Council to-morrow.

MR. C. SRINIVASIENGAR consented to draft an amendment.

The Council adjourned to the next day (25-2-08).

TUESDAY, 25TH FEBRUARY 1908.

The Council met at 3 P.M.

PRESENT. All except Messrs. Kantharaj Urs and Rai Bahadur M. Muthanna.

CLAUSE 7.

PRESIDENT.—The first item of business for consideration this day is the amendment which Mr. C. Srinivasiengar undertook to draft in respect of clause 7. Mr. Srinivasiengar will please move the amendment.

MR. C. SRINIVASIENGAR.—With reference to yesterday's discussion, it seemed to me that the clause as drafted was somewhat defective, and I was asked to prepare a fresh draft for the consideration of the Council. This I have done and with the permission of the President I beg to move as follows:—

I The following be substituted for clause 7:—

"7 (1). The Deputy Commissioner or Assistant Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct, or for neglect of duty, or for incapacity, or for non-residence in the village except with the permission of the Deputy Commissioner or for any other sufficient cause, provided that any order of dismissal or removal passed by an Assistant Commissioner shall be subject to the confirmation of the Deputy Commissioner.

(2) The Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine, or subject to the confirmation of the Deputy Commissioner or Assistant Commissioner, suspend any holder of a village office,

whether in an unalienated or alienated village for any of the causes specified in sub-section (1).

(3) The holder of an alienated village or where there are more such holders than one, any one of them, or the agent of such holder or holders may, when duly authorized in that behalf by a commission issued by the Government in the form of Schedule A, exercise in the village aforesaid and in respect of all or any particular offices specified, and without prejudice to the exercise by the Deputy Commissioner, Assistant Commissioner, Amildar and Deputy Amildar, of the powers respectively vested in them, by sub-sections (1) and (2), all or any of such powers of an Assistant Commissioner, Amildar or Deputy Amildar under those sub-sections, as may be conferred upon him by the Commission.

(4) The officer or person taking action against a village officer under any of the preceding sub-sections shall hold the enquiry himself, record his proceedings in writing, and furnish a copy of his order to such village officer. When such order is passed by the holder of a commission under sub-section (3), the proceedings together with a copy of the order shall also be forthwith reported by him to the Deputy Commissioner or Assistant Commissioner through the Amildar or Deputy Amildar for information and record, or for confirmation, as the case may be.

(5) The Deputy Commissioner may declare, under rules made under Section 23, that the dismissal or removal of any village officer, whether in an unalienated or alienated village and whether ordered by himself or confirmed by him, shall entail a forfeiture of the right of succession of all undivided members of the family of the officer so dismissed or removed.

(6) Fines and suspensions under sub-sections (1), (2) and (3) shall be subject to such limitations as may be laid down by Government by rules made under Section 23.

(7) All fines imposed under this section shall be recoverable as arrears of land revenue, the recovery in the case of fines payable by village officers in alienated villages being made with the assistance of the Deputy Commissioner rendered as far as may be in the manner laid down in Section 98 of the Mysore Land Revenue Code.

(8) All fines levied under this section in an alienated village shall, after meeting losses and expenses, if any, be appropriated to such work or works of local public utility as may be approved by the Deputy Commissioner."

II. In clause 16, sub-clause (2), the words "and from every order passed by a holder under sub-section (3) of Section 7" be omitted and the following added as sub-clause (3):—

"The provisions of sub-sections (1) and (2) shall apply *mutatis mutandis* to appeals from orders passed by the holder of a commission under Section 7."

III. The following schedule be added:—

SCHEDULE A.

"The form of commission to be issued to the holder of an alienated village or to one of several holders thereof or to an agent under Section 7 (3)."

(Seal)

"The Government of Mysore is pleased to confer on you (holder, one of several holders, or agent, as the case may be), power to punish village officers in the village of to the extent described below.

(Here enter description.)

The within delegated power is vested in you during the pleasure of, and subject to re-call by, the Government of Mysore.

Secretary."

Sir, sub-clause (1) of the amendment is almost the same as sub-clause (1) in the draft bill.

As regards sub-clause (2), the difference between the bill as drafted and the amendment I propose is this. I have added a provision empowering the Amildar and Deputy Amildar to suspend a village officer in certain cases subject to the confirmation of a higher authority, while according to the draft, these officers have power only to fine. It seems to me that they may well be trusted with the higher power of suspending, subject to certain restrictions to be imposed by rules framed under Section 23. Then again, the present sub-clause makes a distinction

between patel, shanbhog, toti and talari, and other village officers, whereas the amendment I propose is that the Amildar and Deputy Amildar may be authorized to deal with all village officials in the same way both in unalienated and alienated villages so far as fine and suspension are concerned, subject to the limitations hereinafter mentioned.

Sub-clause (3) of the amendment. This is a new provision and the question was discussed to some extent yesterday. As the original draft stands, there is difficulty in making a selection. To obviate this, I propose that a commission be issued to the holder, if there is a single holder and if he is trustworthy; or if there are more than one holder, to such one of them as deserves the confidence of Government, or to their agent, and the commission may be in a form which is somewhat similar to the one now issued under Section 99 of the Land Revenue Code. The Commission, however, is liable to be recalled at the pleasure of Government, when Government is satisfied that the privilege has been abused. Provision for this has been made in the form I have referred to in Schedule A. There will be no distinction between one class of village officials and another; and the holder, or one of the holders, or the agent, that is to say, the person who holds the commission from Government will be entitled to deal with all village officials in the same way as an Amildar or an Assistant Commissioner if he is given the necessary powers. He can deal with them to the same extent as an Assistant Commissioner can, or to a smaller extent, as the case may be. This will necessitate a small modification being made in the clause relating to appeals.

Sub-clause (4) of the amendment. When the punishment is only fine, the order passed by the holder of a commission will go to the Amildar or Deputy Amildar, and through him to the Assistant Commissioner or Deputy Commissioner, for information and record. But if it is a case of suspension and the holder of the commission has only the limited powers of an Amildar, his order will be subject to the same restrictions as that passed by an Amildar. If he has the powers of an Assistant Commissioner, his order will be subject to confirmation by the Deputy Commissioner. So, as soon as he passes an order, he will send a copy of the order and the proceedings to the Assistant Commissioner or to the Deputy Commissioner for file or for confirmation by competent authority, as the case may be.

Sub-clause (5) of the amendment is almost the same as that contained in the bill with only a small verbal addition, *viz.*, "and whether ordered by himself or confirmed by him," as provision is made for confirmation of an order of dismissal or removal passed by an Assistant Commissioner and when the Deputy Commissioner confirms the order, he is entitled to make a declaration that the heirs of the person dismissed or removed shall forfeit the right.

Sub-clause (6) of the amendment. Up to what amount a fine may be inflicted by the respective officers, and to what extent the duration of suspension may continue are to be regulated by rules to be framed under Section 23.

Sub-clause (7) of the amendment. A superior holder of land is now privileged to go to the Deputy Commissioner and ask for his assistance for recovery of rent or land revenue from inferior holders. To the extent possible, the same procedure is to be applied for the recovery of fines and for orders passed by holders of commission. He may apply to the Deputy Commissioner for similar assistance as in Section 98 of the Land Revenue Code.

Sub-clause (8) of the amendment. This is novel. It is just possible that there may be some holder of a commission who in order to enrich himself might pitch the fine too high. Whatever it is, there is no harm in providing against such abuse. If the holder sustains any loss in consequence of the misconduct of the official punished, the fine will go to compensate him. If there is any excess, the Deputy Commissioner will decide for what purpose it is to be utilized.

Amendment proposed to clause 16, sub-clause (2). Provision is made in clause 16, sub-clause (2) of the bill, for appeal to an Assistant Commissioner from the order of a holder, and it is declared that his decision shall be final. Under it, a holder has power to inflict fine only. Now as he may be invested with the enlarged powers of an Assistant Commissioner, appeals from his orders have to be regulated accordingly. So I propose the deletion of the words "and from every order passed by a holder under sub-section (3) of Section 7" in clause 16, sub-clause (2), and the addition of a new sub-clause (3) to the following effect:— "The provisions of sub-sections (1) and (2) shall apply *mutatis mutandis* to appeals from orders passed by the

holder of a commission under Section 7." If the holder exercises the powers of an Assistant Commissioner, the appeal will go to the Deputy Commissioner, and if the Deputy Commissioner deals with it, there will be another appeal to the highest Revenue authority. Thus appeals from orders passed by holders will be regulated in the same way as appeals from orders passed by Amildars and Assistant Commissioners.

The schedule is taken from Schedule (*f*) in the Land Revenue Regulation with suitable alterations.

My object in framing this amendment is to deal with the question as a whole and to give Amildars and Deputy Amildars more control over village officers in alienated villages than is proposed to be given in the draft before the Council and also to give the holders of alienated villages more hold on their village officers. At the same time, there are a large number of cases in which there are more holders than one and they are at variance, and it is extremely difficult for a majority of them to concur and make a single nomination, and unless the powers are vested in a single person, it will be impracticable to carry out the provisions of this section; either there must be one holder or if there are more holders than one, they should combine and appoint one man and get Government to recognise the appointment; or Government, in consideration of the circumstances of the case, should themselves, irrespective of the consent of the holders concerned, make an appointment. There may also be cases in which an agent may be appointed and given a commission whether there is one holder or several holders. This is the most important of the several points dealt with. The commission will not take away from our officers the powers vested in them, and they may continue to exercise those powers. The holder, or one of several holders or the agent is also to be empowered to punish, without prejudice to the powers already vested in the Revenue officers.

MR. T. ANANDA RAO.—I endorse all that Mr. Srinivasiengar has said and second this proposition with one small amendment. With regard to fines, it is a complicated procedure to allow them to be collected as arrears of land revenue with the assistance of the Deputy Commissioner. A great difficulty is the purpose to which the fines should be devoted. It is better to abolish the power of fining proposed to be given to holders of alienated villages. They may be given power to suspend, but the power to fine must be taken away from them. For the recovery of one or two annas fine, a very complicated machinery has to be set in motion.

MR. NAGAPPA.—I endorse what Mr. Ananda Rao has said and also what Mr. Srinivasiengar has said as to commissions being issued, but I think the dual authority given to the holder and the Revenue officer will work as a hardship. In the same locality, both officers will exercise the same powers.

As to the question of fine, it is necessary to invest the holder of a commission with power to fine; but I do not quite approve of Mr. Srinivasiengar's suggestion contained in sub-clause (8) as to how the fine is to be utilized. It seems to me that it should go to the improvement of tanks, if any, in the holder's village or to the holder himself. It is highly necessary that we should not interfere with the internal management of the village by the holder. At the same time, the efficiency of the public service requires that patels and shanbhogs should be required to perform their duties satisfactorily. Only so far as efficiency is concerned, the legislature may interfere with the internal management of an alienated village. I would rather omit the words "public utility" in sub-clause (8) of the amendment and say "shall be appropriated to such works as are calculated to improve the tank in the alienated village." With these observations, I submit that the amendments proposed by Mr. Srinivasiengar may be adopted.

MR. RANGIENGAR.—The first clause of the amendment is merely a reproduction of the clause recommended by the Select Committee. In the second clause of the amendment, alienated and unalienated villages are clubbed together, and as remarked by Mr. Srinivasiengar, all the servants in an alienated village are brought within the jurisdiction of Revenue Officers. It is not advisable to place all the servants of the village, without describing who they are, within the jurisdiction of Revenue Officers. Certain village officers of an alienated village come into contact with public servants, and in relation to their work, Government has an interest; but Government is not interested in every kind of village officers in an alienated village and ought not to have anything to do with the maintenance of discipline of those servants with whom it does not come in contact. This was discussed in the Select Committee and we

particularised the servants over whom power should be exercised, because the nature of their work brought them into contact with Revenue Officers. It was therefore that the Amildar or the Deputy Amildar was given power to inflict fine or otherwise punish these servants. In the proposed amendment, they are not particularised.

Clause 3 of the amendment is also open to certain objections. An agent is a person appointed by the inamdars or vrittidars. He may be appointed for one or two years. His tenure of office is not permanent. If a commission is issued in his name, and he is removed, then the commission will have to be recalled and another commission issued in favor of another person. It will entail a good deal of work upon Government and Government will find it inconvenient to deal with successive agents. The holders are not required to be consulted in the matter. It is possible that an agent may make himself obnoxious to the inamdars or a large majority of them. If Government invests him with the powers of an Amildar or an Assistant Commissioner, the inamdars may determine the agency and of what avail then will the commission issued by Government be ? If the new amendment contained any provision for consulting the wishes of the inamdars, then there would be some guarantee that the commission would hold good for some length of time. But as it stands, it is open to these objections.

As regards the recovery of the fine, I am quite at one with the First Councillor in saying that the rule that is proposed to be enacted will be found very difficult to work and very complicated, and rather than introduce so much complicacy into the Regulation, I would support the suggestion made by Mr. Ananda Rao that power to fine may not be given to the holder of an alienated village.

Then as regards what should be done with the fine; that again is a very difficult question and the learned mover has himself admitted his suggestion to be a novel one. If we cannot allow the holder of an alienated village to appropriate the fine, then we had better not give him any power to fine. It is not likely that he would unnecessarily or vexatiously fine his servants, and if any such fine is imposed, it is open to the Deputy Commissioner to set it aside. We need not have any apprehension that the holder will maliciously impose fines with the object of enriching himself.

Then with regard to appeals, the learned mover of the amendment proposed certain alterations. But before these alterations are incorporated in the bill, I submit that there should be provision made for an appeal being preferred and then it may be said that appeals lie in such and such a manner. In the first instance, we must provide for an appeal. In clause 16, sub-clause (2), we provide that an appeal shall lie, and this clause Mr. Srinivasiengar has amended.

I submit the amendments now proposed are open to these objections.

MR. C. SRINIVASIENGAR.—Sub-clauses (1) and (2) of clause 16 provide for appeals.

MR. A. RANGASWAMI IYENGAR.—I think the consideration of this clause will be facilitated if we divide it into two portions. As it is, I understand that the amendments proposed by Mr. Srinivasiengar have the general approval of the members. There have been many minor amendments proposed by different members in respect of the different sub-clauses. It will be somewhat confusing, I think, to discuss all these amendments before the amendments proposed by Mr. Srinivasiengar are accepted or rejected as a whole. The main point is whether the re-drafting of the clause as proposed by Mr. Srinivasiengar is acceptable or not to the Council. If it is, it may be carried in the first instance, subject to the wording of each sub-clause being considered later. That will facilitate the progress of business. I believe that the amendment proposed is certainly an improvement. It will, as explained by Mr. Srinivasiengar, remove many small defects that existed in the clause as it originally stood, and I would therefore recommend that the whole of it be accepted. If this procedure is followed, the amendments proposed by the other members may be taken later on; otherwise I will proceed to make my remarks on the objections that were raised.

PRESIDENT.—My idea was to have the whole thing discussed. There is a general agreement, I believe, as regards the suitability of the amendments proposed by the mover, and the idea was, after discussing the details, to read the several sub-clauses and ask for the opinions of the members as to passing each one of them.

MR. A. RANGASWAMI IYENGAR.—If that is the case, then the sub-clauses may be taken one by one.

PRESIDENT.—Sub-clause (1). I believe that so far as this sub-clause is concerned, we are agreed to accept it as it stands.

MR. RANGIENGAR.—I would particularise the servants of the alienated village.

PRESIDENT.—This is a further amendment. Will you please read your amendment?

MR. RANGIENGAR.—"In an unalienated village, or the patel, shanbhog, toti and talari in an alienated village."

MR. NAGAPPA.—I second it. It is not necessary for the Assistant Commissioner to punish the nirganti and other servants.

MR. RANGASWAMI IYENGAR.—I am not in favor of this amendment for this reason. By the very definition and scope of the bill, it deals with only five classes of village servants. Mr. Rangiengar himself has no objection to four of these being punished by the Deputy Commissioner and Assistant Commissioner. The fifth is only the nirganti who seldom comes into contact with revenue officers. Very little distinction is made between the duties performed by toti, talari and nirganti in an alienated village. I think it is better to leave the sub-clause in this indefinite and comprehensive way than to minutely describe the names of the village officers, especially as it refers to the powers of higher officers such as Assistant Commissioners and Deputy Commissioners who are responsible for the efficient administration of a large area.

MR. V. N. NARASIMMIYENGAR.—I beg to say, Sir, that the proposed legislation refers virtually to the Government servants in each village in contra-distinction to the artisans. These Government servants are only five in number; they are known in different places by different names, but all can be classified under five heads, *viz.*, shanbhog, patel, toti, talari and nirganti. The amendment proposed by Mr. Rangiengar refers only to the nirganti. He is quite agreeable to the other four kinds of servants being brought under the jurisdiction of Revenue Officers. He would only exclude the nirganti. It is quite possible, I think, in the course of revenue administration, that the Deputy Commissioner may have something to say to the nirganti as regards waste of water, etc., and I see no sufficient reason to exclude the nirganti. So I am in favor of Mr. Srinivasiengar's amendment.

MR. SYED AMIR HASSAN.—I support it.

Mr. Rangiengar's amendment was put to the meeting, but was not carried.

PRESIDENT.—Before we finish with this sub-clause, I should like to suggest a small improvement in the wording of it. Instead of "except with the permission of the Deputy Commissioner," I think it will be an improvement to have "except when such non-residence is permitted by the Deputy Commissioner."

This suggestion having been put to the Council was adopted unanimously.

PRESIDENT.—Then we come to sub-clause (2). Are there any amendments to this sub-clause? It will be noted that the power of suspension is proposed to be given for the first time in this sub-clause. It was not in the original bill or in the amended bill as presented by the Select Committee. If the Council is agreeable to this sub-clause also being passed, we will proceed to the next.

This was also adopted.

PRESIDENT.—Sub-clause (3) of the amendment. Mr. Rangiengar objects to the agent being recognised.

MR. RANGIENGAR.—As I submitted to the Council, if the commission is to be issued without a reference to the inamdars and without consulting their wishes in the matter, it may so happen that very soon after the commission is issued, the agent may cease to be such, and then the commission will be of no avail. I submit that in this sub-clause as proposed by Mr. Srinivasiengar, certain amendments are necessary to guarantee the continuance of the commission for some time at least. In the case of a commission being issued to the holder of an alienated village, or to one of its holders, there will possibly be no difficulty, because the Deputy Commissioner will take into account the qualifications of the several holders. But in the case of the agent whose office itself is very precarious, to give the commission to

the agent without consulting the wishes of the inamdar will be productive of much inconvenience.

MR. A. RANGASWAMI IYENGAR.—This is only an inconvenience in detail, and it is not difficult for us to imagine cases where the agents may be the nominees of the holders themselves.

PRESIDENT.—There is nothing in the clause to imply that the commission is to be given without consulting the wishes of the holders.

MR. A. RANGASWAMI IYENGAR.—Unless the agent carries some prestige or authority with him, he will not be able to carry on the work. The idea is to give power to the holders of inam villages to enforce due subordination on the part of their village servants.

PRESIDENT. Is the amendment that the word "agent" be omitted from this sub clause seconded?

MR. RANGIENGAR.—I would suggest that the expression "the agent of such holder or holders appointed in consultation with them" be used.

PRESIDENT.—This is a well drafted sub-clause. Nothing is fixed here. It provides for powers being given with regard to the several officials of each village, and Government will determine what power shall be given, and with regard to what officers. All the powers that may be given are not proposed to be given. There is discretion given to Government as to the kind of powers to be given, and also as to the officers with regard to whom these powers should be given.

MR. RANGIENGAR. I want to know whether for the same offence, a servant may be punished twice, because the inamdar may punish the servant and the Amildar or Deputy Amildar may also punish him. We may attribute some amount of common sense to them, but there is no knowing what may happen in some peculiar combination of circumstances.

MR. A. RANGASWAMI IYENGAR.—I was going to suggest whether it was necessary to have this sub-clause at all. I think it is not required. The whole of it may be eliminated without any disadvantage.

PRESIDENT. But, this is a very happy way of dealing with the thing, reserving discretion to Government as to the class of officers to be dealt with under this commission, and also of the kind of powers to be given to the holders.

The Council agreed to adopt sub-clause (3).

MR. K. P. PUTTANNA CHETTY.—I would ask whether it is proper to invest holders of alienated villages with power to fine. The First Councillor took exception to it, but this sub-clause includes it as a matter of course.

PRESIDENT.—We will now take up the question of giving holders of alienated villages the power of fining village officials.

MR. ANANDA RAO. In Madras, the holders have no such power; and we may adopt the same practice here also.

MR. SRINIVASIENGAR. Fine was the only punishment provided by the Select Committee, and I have retained it and added to it. It is the least severe punishment.

PRESIDENT. The difficulty in Madras was in finding the fund to which the fine ought to go.

MR RANGASWAMI IYENGAR. Fine is the lowest kind of punishment. With all that, there is the right of appeal to the Deputy Commissioner. A punishment of fine can always be reconsidered. And then Government has the power of limiting the levy of fine.

PRESIDENT.—The question of investing a holder with power to fine was in issue in the Madras Legislative Council and the members unanimously voted against it.

MR. RANGASWAMI IYENGAR. There is not the same connection between Revenue officers and holders of villages in Madras as there is in this State. There is always an opportunity for the party concerned going to the Revenue officer and getting the propriety of the fine reconsidered. And also, that the difficulty in finding a fund to which it should be credited should be advanced as a reason for not imposing a fine is rather an impotent conclusion in my opinion.

MR. AMIR HASSAN.—The difficulty arises when the inamdar himself fines his servant. But if the fine is imposed by the Amildar, the difficulty does not exist.

[The minutes of the Proceedings of the Madras Legislative Council referring to the question at issue were read by the Secretary.]

MR. ANANDA RAO.—It is rather awkward that the officers of Government should help the holder in having to execute his own order against his servant. It would be a different thing where the commission to collect revenue under the Land Revenue Code is given to him.

MR. NARASIMMIYENGAR.—If the holder has to go all the way to the Amildar to request him to fine his own village servant, what respect can the holder command? The object of the bill is to strengthen the hands of the holder. The holder can be invested with the power to fine, subject to such restrictions and control of the Revenue Officers as may be prescribed. As the Revenue Commissioner said, fine is the easiest penalty. If he can suspend his servant, why should he not fine him also? Besides, the servants are paid out of the potgi.

MR. S. NARAYANA RAO.—There is another way of looking at the question. A jodidar or inamdar to some extent represents Government so far as his village servants at least are concerned. He exacts from them such work as they would have rendered to Government, had the inam not been granted and so any fine which he may impose upon his servants for neglect of any duty, takes the form of a punishment inflicted by Government and therefore it should go to the Government Treasury.

MR. NARASIMMIYENGAR.—It is well recognized that the inamdar stands in the place of Government in his village.

MR. PUTTANNA CHETTY.—It is worth considering whether the fine may not be made subject to confirmation by the Deputy Commissioner. The fine will have to be levied by the Amildar. There is greater chance of the power being well used by the commission holder.

MR. NAGAPPA.—It is very desirable to invest the commission holder with the power of fining. When the Government issues a commission to him, he may be considered to be qualified to exercise such power. As pointed out by the Revenue Commissioner, the destination to which the fine should go should not stand in the way of the holder being invested with the power to fine.

MR. NARASIMMIYENGAR.—Except revenue from excise, sandalwood and sundry other things, all other income from the village goes to the inamdar. While such is the case, if the fine imposed should be decided to go to the public treasury, will it not be an encroachment upon his property?

MR. RANGASWAMI IYENGAR.—Fine is not a revenue.

MR. ANANDA RAO.—I should think that the rule as to dealing with the fine when collected should follow that as to receipts from the cattle-pound of the village.

MR. RANGASWAMI IYENGAR.—There is another aspect of the case. These fines are payments for failing to do a duty. As a penalty for neglect of duty, these fines ought to go to the public treasury.

PRESIDENT.—So you have no objection for retaining this concurrent jurisdiction.

The Council agreed to it.

PRESIDENT.—Then as regards fine, shall we say that the fine levied by the holder of an alienated village will go to the public treasury?

This was accepted by the Council.

PRESIDENT.—We have to provide for another matter also. An Amildar has no power at present to punish a village officer—patel or shanbhog, when he does not reside in the village. Whether this power should be given to him has to be settled.

MR. RANGASWAMI IYENGAR.—I have to suggest something with regard to this. It would perhaps be better if, instead of allowing the Amildar and others to punish the village officers for incapacity, non-residence, etc., they are allowed to punish only for misconduct and neglect of duty. There can be summary procedure only in these matters. The other causes can be more leisurely dealt with by a higher authority. Hence, for the words "for any of the causes," the words "for misconduct and neglect of duty" may be substituted.

The Council unanimously agreed to this.

PRESIDENT.—We will proceed next to sub-clause (4) of the amendment. I think this is unobjectionable.

MR. RANGASWAMI IYENGAR.—If the sub-clause is taken to mean that all proceedings of enquiry including fine are to be reported, it will have the effect of throwing too much work on the holder of a commission. For confirmation of course, it will do. I would suggest that all proceedings, except in the case of fine, shall be reported for confirmation.

MR. NAGAPPA.—It does not much matter. Only the action taken is to be reported and not the entire record. The commission holder may report the full proceedings, so that the authorities may find ample material for seeing whether the power is rightly used.

MR. RANGASWAMI IYENGAR.—I find it difficult to understand the word "report." Perhaps it means "report the action taken."

MR. SRINIVASIENGAR.—He need not forward the record of the enquiry but only report the proceedings or action taken.

MR. ANANDA RAO.—It often happens that only a copy of the bare order passed is given; and this is insufficient to go upon.

MR. SRINIVASIENGAR.—In that case, other papers will be called for and the legality of the order tested by the higher authorities. There is no harm in retaining the wording as it is.

The Council agreed to adopt sub-clause (4) as framed by Mr. Srinivasiengar. Sub-clauses (5) and (6) were also unanimously adopted.

PRESIDENT.—Sub-clauses (7) and (8). I think sub-clause (7) may be modified as follows, and sub-clause (8) omitted.

"All fines imposed under this section shall be recovered as arrears of land revenue, the recovery in the case of fines payable by village officers in alienated villages being made by the Amildar and credited to the public treasury."

The Council agreed to the above.

CLAUSE 8, SUB-CLAUSE 1 (*f*).

MR. NAGAPPA.—Sir, I beg to move that the words "or of his being insolvent and unable to maintain his position" be added at the end of sub-clause (1) (*f*). In doing so, I beg leave to say that this bill does not provide for a property qualification in the case of village officers. The present practice, I believe, is that persons who do not possess lands or other properties in the village are seldom or never appointed as patels.

There has been much discussion of late regarding the relative advantages of having stipendiary village officers as opposed to hereditary officers. The advantages of having hereditary officers were found by experience to be greater, both as regards the prestige and influence commanded by them with the villagers and their reliability as custodians of Government revenue. Any village officer, who does not possess good character and has no property qualification, cannot possibly command the local influence and respect of the villagers, and the appointment of such an officer will not tend to advance the efficiency of the village service. I apprehend that the appointment of a pauper as patel will lead to serious consequences, and, I believe, it is against public policy. In deference to the opinions expressed by veteran Revenue Officers, Government have wisely passed Proceedings No. 641-37, dated the 17th April 1886, to the effect that a pauper cannot be retained in a pateli office. It is undesirable to do away with the present practice. I therefore propose this amendment.

MR. RANGASWAMI IYENGAR.—I should say that it is a very good suggestion and that it may be brought in at the end of sub-clause (1) (*e*).

MR. ANANDA RAO.—This question was brought before the Select Committee and we thought it would come under "antecedents." If the general impresssion now is that it should be added, we may add it.

MR. PUTTANNA CHETTY.—Several cases have come under my notice of patels being paupers, and they were removed from office and suitable persons were appointed in their stead. I think the suggestion made by Mr. Nagappa is a very good one, that paupers and insolvents should be excluded from the offices of patel and shanbhog.

MR. NAGAPPA.—As an alternative, I would submit that the portion relating to insolvency may be retained, and the other portion of the amendment omitted. We may add "is an insolvent" in (*e*). This clause also gives ample discretion to the Deputy Commissioner; so, there is not much difficulty.

PRESIDENT.—I don't like that the word "antecedents" should be kept on. We may say that on the ground of his character not being good, he may be disqualified. However we shall reserve this for consideration to-morrow.

MR. SYED AMIR HASSAN.—I beg to withdraw the amendment I intended to move with regard to this sub-clause.

CLAUSE 8, SUB-CLAUSE (2).

MR. NAGAPPA.—I would request that the amendment I have suggested to this sub-clause be taken up when we deal with clause 11.

CLAUSE 8, SUB-CLAUSE (3).

MR. NAGAPPA.—Sir, I beg to move that at the end of sub-clause (3), a semi-colon be substituted for the full stop, and the following words added, "provided that when the next heir is not qualified under Sub-Section (1), clause (*d*), at the time of succession, he shall be given a period of not less than three years to qualify himself."

It has generally been the practice of nominating a competent person in all cases of incompetency of the officiator in direct hereditary succession, such nomination to hold good in the case of a minor till the end of the period of his minority, in other cases, for three years, when the nomination will revert to the hereditary family, if a competent person can be found therein. (*Vide* Rule XXX of the revised rules for the remuneration of patels and shanbhogs, which have the force of law in Mysore.) It will be a hardship upon the rightful person entitled to succeed, if he is deprived of the right for want of educational qualification only at the time of filling up the vacancy, although he may become fully qualified subsequently. There is apparently no reason assigned why this new departure from the recognised practice should be adopted.

I am of opinion that the above quoted rule should be given effect to in this Regulation. I therefore propose the amendment.

MR. PUTTANNA CHETTY.—We cannot expect educational qualifications from every patel, until we extend our general educational scheme to all villages. As to the granting of time for acquiring the necessary qualifications, the potgi rules cannot be ignored.

MR. RANGASWAMI IYENGAR.—The Potgi Rules refer to the first appointment.

MR. SRINIVASIENGAR.—The hereditary principle is stretched too far in the proposed amendment. You say he has no educational qualifications, and yet he must be given three years' time.

MR. ANANDA RAO.—There is one point for consideration. In the Potgi Rules, the contention is between a stranger and the next of kin. But the amendment applies also to a contention between the kins themselves.

Mr. Nagappa was requested by the President to draft a suitable clause and bring it before the Council the next day.

The Council adjourned to the following day, 26th February 1908.

WEDNESDAY, 26TH FEBRUARY 1908.

The Council met at 1 P.M.

PRESENT.—All except Mr. Kantharaj Urs.

CLAUSE 8, SUB-CLAUSE (1) (*f*).

PRESIDENT.—The first thing we have to deal with to-day is the amendment of sub-clause (1) (*f*) of clause 8. "By reason of his bad character or antecedents" was the original draft, and Mr. Nagappa proposes an amendment.

MR. NAGAPPA.—I beg to move that for sub-clause (1) *(f)* of clause 8, the following be substituted:—"Has been adjudged by the Deputy Commissioner or Assistant Commissioner to be of general bad character or declared by a competent court to be insolvent."

Sir,—This amendment is desirable. The word "general" is added for the following reasons. Evidence of rumours in a particular place that a man has committed several offences on several occasions, that he has *budmashes* under him to assist, and generally that he is a man of bad character is no evidence of general bad character. Evidence of rumours is mere hearsay evidence of a particular fact. Evidence of repute is a different thing.

A person's general reputation is the reputation he bears in the place where he resides amongst all the townsmen, and if it is proved that such a person is looked upon by his fellow townsmen as a person of good repute, that is strong evidence that he is a person of good character. On the other hand, if the state of things is that the body of his fellow-townsmen who know him look upon him as a dangerous person and of bad habits, that is strong evidence that he is of bad character.

It can hardly be said that a person possesses generally a bad character merely because there are rumours in a particular place among a certain class of people that a man has done particular acts or has characteristics of a certain kind.

This is the interpretation given to these words occurring in some of the Codes. This, I believe, is the right interpretation.

Besides, these words are used, I submit, in the same sense in Bombay Act V of 1886, Section 45. It would be better, therefore, to adhere to the same phraseology in our Regulation.

The word "adjudged" is better than the words "in his opinion disqualified, etc.," as used in the present clause. For the word imports "to award judicially in the case of a controverted question," or "to declare by a judicial opinion or sentence;" as the case was adjudged in Hilary term.

It necessarily implies that the officer should hold judicial enquiry and pass his order. It is in this sense the word is used in Bombay Act, V of 1886, Section 45.

Here in clause 8, it is not provided what inquiry the Deputy Commissioner has to hold and how he has to form his opinion. The section as it stands is "is in the opinion of the Deputy Commissioner disqualified." For the matter of that, he may not hold any inquiry at all. If so, what material is there for an appeal against his order? It is not incumbent upon him to hold an inquiry. But if the person is to be adjudged to be of bad character, the Deputy Commissioner should hold an inquiry and give his reasons for saying that he is of bad character. Then there would be materials on record for appeal.

In "adjudged insolvent," the word "adjudged" means declared or adjudicated by a competent court to be insolvent.

For these reasons, I submit that the amendment may be adopted.

MR. SRINIVASIENGAR.—In the Bombay Act the section is well expressed and suits all our purposes. Character, circumstances in life, etc., have all to be taken into consideration by the Collector. And the Bombay wording will meet all requirements. It is sufficiently comprehensive. There will be enquiry held; and the manner of enquiry is laid down, under which will come several circumstances which go to hold whether the man is of general bad character or not.

PRESIDENT.—Is it the sense of the Council to adopt Mr. Srinivasiengar's proposal?

MESSRS. SRINIVASIENGAR and NARAYANA RAO.—The section in the Bombay Act may be adopted with the necessary changes suited to Mysore.

PRESIDENT.—Then the section will stand thus:—"Has been adjudged by the Deputy Commissioner or Assistant Commissioner after a summary inquiry held in accordance with the provisions relating to summary inquiries contained in the Mysore Land Revenue Code of 1888 to be of general bad character."

This was agreed to by the Council.

CLAUSE 8, SUB-CLAUSE (3).

MR. NAGAPPA.—I beg to move that the comma after the words "under sub-section (1)" in this sub-clause be substituted by a full stop and the following words added:—

"And provided that when the next heir is not qualified under sub-section (1), clause (*d*) at the time of succession, he shall be given a period of not less than three years to qualify himself."

In this connection I beg to bring to the notice of the Council the Madras Board's Proceedings No. 408, dated 22nd November 1897.

It has generally been the practice to nominate any competent person in all cases of incompetency of the officiator in direct hereditary succession. "Such nomination to hold good in case of a minor till the end of the period of his minority; in other cases for three years, when the nomination will revert to the hereditary family, if a competent person can be found therein." (*Vide* Rule XXX of the Revised Rules for remuneration of patels and shanbhogs which have the force of law in Mysore.)

It works hardship upon the rightful person entitled to succeed if he is deprived of his right for want of educational qualification only at the time of filling up the vacancy, although he may become fully qualified subsequently. There is apparently no reason assigned why this new departure from the recognised practice should be adopted.

I am of opinion that the above quoted rule should be given effect to in this Regulation. I therefore propose the amendment.

I have made some changes here in regard to suits. Here no suits are necessary, but a mere inquiry by the Deputy Commissioner will do. Perhaps it may be safer to stick to the same wording. But I have made changes suited to Mysore conditions.

MR. SRINIVASIENGAR.—I would propose a very short addition to this clause. After "sub-section (1)" in sub-clause (3) put a comma instead of a full stop and add:—

"Subject to the appointment terminating and the office reverting to the family of the last holder at the end of three years, if a duly qualified person from that family should then be found forthcoming."

MR. RANGASWAMI IYENGAR.—I would suggest another amendment. At the end of sub-clause (3), add:—

"The appointment of such person shall hold good for three years and shall become permanent thereafter if no qualified person with hereditary claims be found in the meantime."

The reason why I refer to the hereditary claim is this. Very often there are hakdars not only in the line of the family of the last holder, but there are also joint hakdars. We have made provision for the claims of the members of such families also being considered. So it would be better to leave the section general, with the words "hereditary claims."

PRESIDENT.—Because the person (heir) is not duly qualified, we bring in a stranger. As soon as the person becomes qualified, the stranger's appointment will cease. So the person who is to hold the appointment permanently is indicated, but a stranger steps in pending the heir qualifying himself.

MR. RANGASWAMI IYENGAR.—There may be a person in the family who may have left the place, who may be unheard of at the time, but who may be found within three years.

MR. SRINIVASIENGAR.—A single heir has been provided for. If there are several bearing the same relationship, the eldest of them is selected and then the next and so on. Thus we exhaust the list of persons within the family and if there be none forthcoming, we go out of the family for selection. But if one in the family afterwards comes forward, duly qualified, he is selected.

MR. RANGASWAMI IYENGAR.—Yes. But there may be others also who may have hereditary claims, but who may not be found then. For instance, for the shanbhogi *hak*, there was one who was holding the appointment and he is now dead. You find

out one who is to succeed. There may be others who may have a claim for the same. We have made provision for the consideration of their claims.

PRESIDENT.—I think we have lost sight of the object of enacting sub-clause (3). It is only when the next heir is found unqualified, we extend the selection further and include all those people of the eldest branch, of the collateral branch and so forth. And even when that person is found not qualified, we are so tender to the principle of hereditary succession, we say that the stranger to be appointed shall hold office only for three years and the moment the heir qualifies himself, the stranger's appointment shall cease. We exhaust the list of heirs before going to the stranger and why bring in the question of a member of the family again?

MR. RANGASWAMI IYENGAR.—If I understand it aright, it means that it applies only to the temporary disqualification of the next heir.

PRESIDENT.—We first of all select the next heir; and in selecting the next heir we go to the collateral families also and even when all possible search is made one who is qualified, is not found there is yet a further field for selection; and even when such a person to be found in the family of the hakdar is not qualified, we propose to appoint a stranger. In fact, I do not know if we may not stop with that and omit the proposed amendment altogether. This sub-clause itself contemplates going in search of some qualified hereditary man entitled to succeed, in virtue of his belonging to the family when the next heir is not qualified.

MR. RANGASWAMI IYENGAR.—What I mean is this. Potgi rules contemplate the appointment of somebody with a *hak*. When such a person is appointed, even if a man with stronger claims has been overlooked, that appointment is not interfered with. But if an entire stranger is brought in, then three years' time is given in order that the person superseded by oversight might come and urge his claim. I only tried to explain the idea underlying the provision. If you are disposed to provide for such a view and want to keep the appointment of the stranger as a temporary one for three years, then the best plan will be to keep the succession open for any one with a proper claim to come forward if he is qualified. For instance, it may happen that a person is away on pilgrimage or is not thought of; shanbhogs and patels may have made all enquiries and the name of such person may have been omitted. Two years after, the person might return and lay claim to the appointment. If the appointment is given among the hakdars, then the coming of the man with a better title at a later stage will not disturb the appointment. But if a stranger is appointed, then there is a chance of that man whose claim had to be overlooked by force of circumstances coming forward and claiming the appointment.

PRESIDENT.—It will be truly extending the object of the three years' tenure. The three years' tenure was suggested purely with a view to enable a man whom the Government have found to be the next heir to qualify himself, so that the *hak* may not pass out of the family altogether. Now if the principle is applied to the purpose of finding out if there are any people from the collateral branch who are entitled to the office, I think that will be going beyond the purpose for which that provision was proposed to be made.

MR. RANGIENGAR.—The object stated by Mr. Rangaswami Iyengar is fully secured by Section 11 of this Regulation where it is enacted that the *hak* may be established through a competent Civil Court.

PRESIDENT.—In the first place the necessity of sub-clause (3) is not clear at all. Every possible person in the line of succession or belonging to the family has been exhausted in sub-clause (2), and the claim of every person considered in that sub-clause. Where then is the necessity for the next sub-clause?

MR. SRINIVASIENGAR.—Sub-clause (2) deals with the next heir, that is, immediate heir. When there are several persons in the same category, the eldest is preferred. That is all sub-clause (2) deals with. The claims of hakdars whose names are registered and who are officially recognized as such are also considered in making appointments. Then comes sub-clause (3) which deals with heirs more remote. When the immediate heir is not qualified or is non-existent, then you go to the next, as, for instance, the nephew, grandson, etc. If he cannot be appointed, you go to a more remote heir and if no such remote heir is forthcoming, you go to a stranger. The question then simply is whether the latter is liable to be dispossessed by anybody with a hak or only by the next heir superseded for want of qualification.

MR. RANGASWAMI IYENGAR.—I have to add one word more. Sub-clause (2) refers to the right of a person to succeed having regard to relationship and so forth. Sub-clause (3) refers to his qualifications. In case the man is not qualified under sub-clause (1) what should be done? So sub-clause (3) is also necessary.

PRESIDENT.—You first of all see if the son of the last holder is available. And then you go to collateral branches. So you exhaust every possible claimant to the office in virtue of his claim to succeed in hereditary succession to the last holder and when you have done so and find that the next heir is not qualified, you say that the sub-section provides for the appointment of a stranger and that appointment is proposed to be made only for three years, in order to give time to the proper heir to qualify himself and oust the stranger. When the next heir is not qualified, sub-clause (2) allows of your going to the collateral branches.

MR. RANGIENGAR.—Sub-clause (2) refers only to immediate heirs whether one or more. If the man is found disqualified under one or other of the provisions contained in the earlier part of the clause, then you go to more remote heirs. This is provided for in sub-clause (3). If the heir is not found qualified under sub-clause (1), then sub-clause (3) operates.

MR. NAGAPPA.—Sub-clause (2) is a substantive part of the law which lays down the rule of succession, and sub-clause (1) deals with qualifications. Suppose a person is entitled to succeed under sub-clause (2) but is disqualified under sub-clause (1), what is the procedure to be followed? This is provided for in sub-clause (3). So, that sub-clause (3) lays down the procedure to be followed when the heir entitled to succeed is disqualified.

MR. PUTTANNA CHETTY.—I would call attention to the wording of sub-clause (2). It refers to the devolution of succession and the next sub-clause deals with the question of what should be done when the man on whom the devolution falls is not qualified.

PRESIDENT.—Is not Mr. Nagappa's amendment suitable?

MR. SRINIVASIENGAR.—Sub-clause (*1*) (*d*) does not embrace all disqualifications. Except for this, I have no objection to it. Again "within three years" is not what is intended. "At the end of three years" is perhaps what is meant.

PRESIDENT.—What objection is there to Mr. Srinivasiengar's amendment?

MR. RANGASWAMI IYENGAR.—I want the privilege to be extended to collateral claimants. The idea is that some disqualification may be temporary as insanity, ill-health, long absence and so forth. If within three years the disqualification ceases, the man once disqualified may be admitted again. We close the door against him only temporarily. His claim is liable to be revived as against a stranger who can hold office only for three years. After this period if the proper heir who was temporarily disqualified comes forward as qualified, he may be appointed in the place of the stranger. The claim against a person who was disqualified does not become absolute for three years when a stranger comes to the place. We give him a chance till then to qualify himself. If he does not qualify himself within three years, the claim against him becomes absolute. The stranger is then appointed absolutely. In short, if a stranger comes to the appointment, it does not become final for three years.

MR. RANGIENGAR.—I find that clause 11 contemplates the institution of a suit for the recovery of an office. Any one who claims to have a right to a certain office can, at any time within three years, file a suit if he is not preferred to the office and if he is eligible to be appointed. When the law has thus given him three years to file a suit to establish his claim to the office, I fail to see the necessity for providing here in this section that three years' time should be given to a person passed over by oversight or otherwise, to qualify himself and then to apply to the Deputy Commissioner to register his name as the holder of the office. Three years' time is given under clause 11 of the Regulation. My friends here seem to be under the impression that when he is once passed over by the Deputy Commissioner as disqualified, that order operates, and that it cannot be set aside. I am unable to follow that reasoning. The order of the Deputy Commissioner does not operate as *res judicata*; it is only an order after summary enquiry. On the other hand, this order is liable to be set aside by a decree following the institution of a suit under clause 11 of the Regulation.

MR. NAGAPPA.—The Regulation contemplates two classes of inquiry, one on the miscellaneous side and the other on the regular side. If an order is passed by the Deputy Commissioner on the miscellaneous side, that order cannot be set aside. It is final. No appeal against that order is provided for. Clause 16 contemplates either a decree or order. The decree can always be appealed against. That is the practice. If an investigation has already been made and an order passed by the Deputy Commissioner, the claimant who has been passed over has no remedy, except by way of an appeal.

MR. RANGASWAMI IYENGAR.—Clause 8 contemplates a man being qualified at the time the succession opens. We want now to provide that even when a man is disqualified at that time, he can appear again three years after, duly qualified, after getting over his infirmities, and that his claims will be considered then. If such a man was fully qualified at the time the succession opened and if his claim had not been brought forward, then he will come under clause 11. But if his claims had been considered by the Deputy Commissioner in the summary inquiry and had been rejected, his relief would be an appeal and not a regular suit ; so clause 11 gives only a partial remedy and will not cover the classes of cases for which we wish to make provision.

MR. NAGAPPA. - That is exactly my contention. If a person is disqualified at the time the succession opens, but becomes qualified three years after that, he will have no remedy at all under clause 11 unless we make provision for him as in sub-clause (3). Clause 11 only prescribes the procedure. Clause 8 gives the substantive right to the party. If he is disqualified under clause 8, no amount of litigation on his part would entitle him to any relief. He is disqualified altogether under clause 8. We have to provide for the cases of such persons who are temporarily disqualified when the succession opens but subsequently become qualified. It is with that intention that the amendment has been proposed.

MR. RANGIENGAR. -Messrs. Rangaswami Iyengar and Nagappa seem to be under the impression that when the heir files a suit on the ground that when the succession opened he was ineligible but that subsequently he became eligible to the office by becoming literate as set forth in sub-clause (1) of clause 8, he is not entitled to sue That is not the correct interpretation to be put upon clause 11. It simply says "entitled under clause 8." Clause 8 treats of the devolution of the right. If he is the heir of the last holder of the office under clause 8, then he is entitled to file a suit under clause 11. There is evidently a distinction drawn between "being entitled to the office" and "eligibility" of the candidate. Now, the Council will please consider the distinction in clause 11 between the two. The first is his "being entitled," *i.e.*, under the law applicable to the last holder. The next is his "eligibility" to the office, which is determined by other considerations. When the Deputy Commissioner before whom the suit is filed finds that the plaintiff is not eligible, then the suit is liable to be rejected. In the opposite case he proceeds with it.

PRESIDENT.—Why should not the phraseology of the Potgi Rules be adopted?

MR. SRINIVASIENGAR.—I am quite agreeable if only the indulgence is restricted to the family. I at first thought that the principle of heredity was being attempted to be carried too far in these amendments. I am however agreeable to the family of the last holder alone being shown this kind of consideration.

MR. RANGASWAMI IYENGAR.—My contention is that the last holder sometimes gets the office by mere chance, and that on his demise the entire family should be considered for the appointment before going to the stranger.

MR. SRINIVASIENGAR.—The Potgi Rules contemplated a condition of things existing at that time, but no longer in existence.

MR. RANGASWAMI IYENGAR.—My contention applies with greater force to the case of amalgamated villages. There would be only one vacancy and why should the other families lose the right?

PRESIDENT.—Now there is competition between two amendments; the only question is whether consideration should be shown to all or only to the family of the last holder. Hakdars' families are provided for in sub-clause (2). There may be a number of hakdars, one insane, another a minor, another illiterate and so forth. If, within three years the infirmities in each disappear, all will come forward to prosecute

their claims, as against the stranger. Mr. Narayana Rao will please say whether the heirs mentioned in sub-clause (3) are provided for in sub-clause (2).

MR. NARAYANA RAO.—Sub-clause (3) refers to all persons included in sub-clause (2), provided they are not qualified under sub-clause (1). It includes all persons declared to be entitled to come in under sub-clause (2), provided they are not qualified under sub-clause (1). The sub-clauses are co-extensive.

PRESIDENT.—The two sub-clauses (2) and (3) may be combined and one clause drafted. The difficulty can be got over by putting both the provisions in one sub-clause. All the possible heirs may be exhausted, the man who is a stranger brought in and given three years' time and then persons having claims to the office either on the ground of belonging to the family of the last holder or other families entitled to claim the right may succeed, if found qualified. That is Mr. Nagappa's amendment supported by Mr. Rangaswami Iyengar.

MR. RANGIENGAR.—If three years' time is given, it will conflict with Section 11. Before the expiry of three years, a man may file a suit whose claims had not been considered by the Deputy Commissioner. If a stanger is appointed for three years, a conflict will arise between the order of the Deputy Commissioner and the decree. The stranger, of course, will be the defendant in the case. Is it right that the decree should take effect after three years? Is it right that the operation of the decree should be postponed for three years?

MR. SRINIVASIENGAR.—Such a suit does not lie. The plaint is liable to be dismissed.

MR. RANGIENGAR.—Suppose his claims had not been considered by the Deputy Commissioner, and a stranger has been appointed for three years. Then that man whose claims had not been considered files a suit for possession.

MR. ANANDA RAO.—The sub-clauses (2) and (3) may be re-drafted and the re-drafting referred to a Sub-Committee consisting of myself, the Government Advocate and the Revenue Commissioner.

Mr. Rangaswami Iyengar excused himself in favor of Mr. Srinivasiengar.

The Council agreed to this arrangement.

CLAUSE 8, SUB-CLAUSE (4).

The Council considered the marginal note to be incorrect and were also doubtful of the interpretation of this sub-clause, and referred it to the Government Advocate.

MR. S. NARAYANA RAO.—It seems to me that, as the sub-section is at present worded, 'may' is equivalent to 'shall.' It has the force of 'shall,' because it does not give the Deputy Commissioner the option of not making any appointment whatever. It seems to me that no person who is an undivided member of the family of the person removed can be put in, as the clause now stands.

This sub-clause was also referred to the Sub-Committee for re-drafting in order to make the meaning of the legislature clear.

CLAUSE 8, SUB-CLAUSE (5).

MR. NAGAPPA.—I beg to propose an amendment. After the words "sub-section (1)," in this sub-clause, insert a comma and add the words "and if possible, acceptable to the family of the minor." The practice has always been to appoint a person who has commanded the confidence of the family.

It has been the rule to appoint a near relative as gumasta to discharge the duties of the office in cases where the registered holder of the office is a minor. Such a person is generally recommended by the members of the family of the minor. He is considered a trustee for the minor and as such must command the confidence of the minor's family. This principle is found in para 5 of Rule XLIII of the Mysore Land Revenue Rules. There is no reason to make a departure from this practice. Hence the necessity for this amendment.

PRESIDENT.—Does it find a place in the Madras Act? Could we not secure the object by an executive order?

MR. RANGASWAMI IYENGAR read the rule from the Proceedings of the Board of Revenue, Madras, and the SECRETARY read a similar rule from the Mysore Land Revenue Rules.

MR. NAGAPPA.—But, according to Section 2, all the old rules will be repealed.

PRESIDENT.—Why should it be brought in the body of the Act itself? We prescribe certain qualifications under sub-clause (1), and if a person satisfies those conditions, the Deputy Commissioner may appoint him. This is a matter entirely of a discretionary nature which it is not proper to provide for in the Regulation.

The SECRETARY having been directed to make a note that, in framing rules under Section 23, the old rule may be revived, MR. NAGAPPA withdrew his motion.

CLAUSE 8, SUB-CLAUSES (5) & (6).

MR. ANANDA RAO.—Although I am now speaking of sub-clause (5), my remarks will cover sub-clause (6) also.

Sir, in the amendments made to sub-clauses (5) and (6) of clause (8) of the bill, provision has been made by the Select Committee for maintenance being given from the emoluments of the village office to the minor baravarddar and to the sonless widow of the last holder respectively.

On mature consideration it will, I trust, appear to the Select Committee and to the Council generally that these amendments should be omitted.

The provision in question is opposed to the rules for the remuneration of patels and shanbhogs issued under Notification No. 219, dated 27th October 1874, which, with the slight modifications made by Notification No. 2062, dated 31st August 1900, are still in force. Both notifications were issued with the sanction of the Government of India, and any alteration thereof would also require such sanction.

In these rules the remuneration of patels and shanbhogs is fixed on the scale prescribed for each and it is explicitly declared that "the sum payable to each officiator shall be his exclusive perquisite on which no other member of the family shall have any claim." These rules and the scales of remuneration therein prescribed are applied to a taluk directly the Survey Settlement is introduced into it. As the Survey Settlement has now been introduced into all the taluks, the rules in question apply througnout the State.

Looking into the history of these rules, and rules applicable to village offices generally in the State, one is struck with the absence of any good foundation for the provision in question.

The earliest order that has been turned up is the Commissioner's notification dated 9th September 1835. It is there only declared that while, as a general rule, village offices are to be considered hereditary and to be enjoyed by father and son in succession, the hereditary claimant is liable to be set aside if found unfit or unworthy from incapacity or bad character, the Superintendents of Divisions being in that case competent to appoint another person properly qualified in all respects, preference being given to a near relation of the last office-holder. There is no idea here of any female heir being recognized, much less of any maintenance allowance being paid to a minor or a female heir. The same notification also declared that all emoluments annexed by the sircar to shanbhogs and other village officers shall be considered as inseparable, inalienable from the offices to which they are annexed whether by mortgage, sale, gift or otherwise.

Circular No. 5 of 22nd October 1872, was issued embodying for ready reference the instructions issued from time to time regulating succession to hereditary village offices. In this, the inalienable character of the emoluments annexed to the office was again declared, and paras 5 and 6 went on to say—

"5. While the village offices are, as a general rule, to be considered hereditary, and to be enjoyed in succession in the male or female branch, it is to be understood that in any case wherein it may appear to the Superintendent that the hereditary claimant to the office is unfit, from old age, incurable disease, incapacity or bad character, it will rest with the Superintendent to appoint one of his direct and immediate male descendants, such as a son or grandson, and in their absence, undivided brother or their descendants, or daughter's sons before making the selec-

tion from divided brothers or cousins. If there is no such relative, a stranger may be nominated, the person appointed, whether he be a relative or stranger, being of course well qualified in all respects for the office.

"6. When the person lawfully entitled to succeed to the office is a minor, a near relative may be appointed as a gumasta in trust for him until he attains his majority."

Here there is no recognition of the widow or other female heir as eligible for succession to the office, much less entitled to maintenance from the emoluments annexed to the office. The minor is recognized and although, his interests are considered, no provision is made for his maintenance during minority.

It is in the Land Revenue Rule 43 of 1890 that we find provision made for the first time for maintenance being paid out of the official remuneration. Judging from its opening words, it appears to have been copied from the Standing Orders of the Madras Board of Revenue then extant, and judging from the rest of it, it appears to have been copied from the Chief Commissioner's Circular No. 5 of 1872 just mentioned. But neither in the Madras Standing Orders nor, as I have already pointed out, in the Mysore Circular 5 of 1872 is there any provision for maintenance of the minor or widow from official emoluments.

Such a provision made in the Land Revenue Rules of 1890 is possibly based on remarks made in Dewan's Proceedings passed on 28th October 1881 and on 8th May 1883 in two cases regarding succession to the office of shanbhog.

The Order of 1881 began by saying, "It is important that some definite principle should be followed in regard to the appointment of gumastas on behalf of minor shanbhogs." It proceeded to indicate how the minor's mother or other guardian should be consulted as they had naturally the right to nominate such qualified gumasta as they may consider to be in the interests of the minor. But their nominations as a rule fell on members of their own families rather than on those of their husbands or the collaterals who are the next heirs to the office. The order went on to point out how these latter had an interest in the office. It concluded with this sentence, *viz.*, "They (*i.e.*, members of the husband's family or the collaterals) have a preferable right to act as gumasta so long as they do not prejudice the interest of the minors subject to reasonable provision for the minor's maintenance." As to the particular case then before the Dewan, the order confirmed the appointment of the gumasta which had been made in accordance with these principles and directed that some reasonable allowance should be paid by the gumasta for the minor's maintenance.

By way of criticism it has to be observed that the order, though enunciating a principle in general terms, did not discriminate between a settled taluk and an unsettled taluk, and as a matter of fact the case in respect of which the order was passed had arisen in an unsettled taluk. The Potgi Rules of 1874 were entirely ignored, and the most charitable interpretation to place on the Dewan's order under notice is that is was applicable only to unsettled taluks generally without being meant to supersede the Potgi Rules in settled taluks. It is also permissible to argue that although the order contemplated the payment of a maintenance allowance by the gumasta, it did not say that this was to come out of the official emoluments, so that if payment was not made, the same should be excised from the official emoluments.

The Order of 1883 related to a widow's claim in a taluk into which the Survey Settlement had been introduced. It opened by stating that "the rule prohibiting the recognition of widows' claims to succeed to the shanbhogi office of their deceased husbands has not been generally enforced." And I take it that it is this laxity in enforcing what was admittedly the rule that has been the prolific cause of mischief and mismanagement in village affairs. In the particular instance before him, the Dewan observed that "the present shanbhog was an entire stranger to the family and as he had been but recently appointed, it will not be a hardship if he were called upon either to find a proper maintenance for the widow or to give up office altogether, in which case the widow was to be called upon to appoint a competent gumasta." The order is clearly erroneous. As a matter of fact, the widow in this case declined to receive maintenance from the man then holding office, and in the result a near relative of hers, nominated by her, was appointed to officiate for her.

In the course of a search among Chief Commissioner's Orders, an Order of 1878, was found and adduced as furnishing an argument in support of the maintenance clause. But this related to a patel's case which had arisen in the settled taluk of Shikarpur. That order cannot be construed as sanctioning the payment of any maintenance allowance out of official emoluments, because it bears more on the question whether a widow may be recognized as barawarddar and it rejected the widow's claim altogether, and the question of paying maintenance from the remuneration attached to the office did not directly arise, and no decision was passed on it.

Members of Council are aware how, on the introduction of the Survey Settlement into a taluk, the practice of patels and shanbhogs levying Aya and other perquisites on raiyats would discontinue, and these officials would be paid direct by the State. In May 1866, Col. Anderson, the Survey and Settlement Commissioner, proposed a set of rules for calculating the remuneration payable by the State and reiterating the terms of the Commissioner's Order of 1835, prohibiting alienation of the lands appertaining to the office. At para 7 of his letter No. 102, dated 1st May 1866, Col. Anderson said, "In some Collectorates of Bombay, it is the practice to forbid the officiator to share the salary fixed by scale with the other members of the family under penalty of dismissal. For obvious reasons, it must be desirable to do all we can to secure the sole enjoyment of the salary to the person who does the work. Though in practice it is found difficult to enforce this rule or to interfere with the private arrangements of the members of the official family, yet it is, I think, on the whole desirable to retain this rule. If this opinion is concurred in, an additional rule to this effect would require to be inserted." Thereupon the Commissioner of the day noted as follows on the 15th May 1866:—

"In the 7th para of Col. Anderson's letter, he recommends that the officiator should be forbidden to share his salary with his relatives. This had been a practice in the whole Province till the Circular No. 4361, dated 4th January last (1866), was issued disallowing the practice and prohibiting the Courts from admitting such claims."

And in accordance with this Note, the following rule was added to those which had been proposed by Col. Anderson:—

"The remuneration of the officiating patel or shanbhog shall be fixed on the scale for each, and the sum payable to each officiator shall be his exclusive perquisite on which no other members of the family shall have any claim."

Under all these circumstances, the practice of ordering payment of maintenance for the minor and the widow appears to have originated from orders passed subsequent to the Rendition, and when once the underlying principle of Potgi remuneration was lost sight of, the authorities departed further and further from the rule and took upon themselves to lay down the proportion to be paid in accordance with what they conceived to be the requirements of each individual case and the minimum wages on which an officiator could be secured to work, and to issue all manner of instructions as to how the payments should be made, whether direct from the Treasury or otherwise and what steps should be taken if the payments were not made. The remuneration allowed to village servants is not over-liberal, and it does not require much argument to show that the payment of any portion thereof to a widow or minor for maintenance is in violation of the explicit rules on the subject and the principle that the Potgi is paid for services rendered. Such a provision is opposed to public policy and is calculated to detract from the efficient discharge of the duties of the office and lead to the officiators oppressing the raiyats and resorting to other means for recouping what is deducted out of the remuneration fixed for the office. As already observed, it is at variance with the rules and practice in Madras and Bombay, where the conditions of village service are similar to those in Mysore. There is also an authoritative ruling of the Bombay High Court in Indian Law Reports, XVIII Bombay 752, that an agreement between a watandar and a deputy nominated by him for the payment by the latter to the former in consideration of procuring such nomination, of a sum of money out of the cash allowance received by the deputy as remuneration assigned to his office is not legal, being contrary to the spirit of section 7 read with section 23 of the Bombay Hereditary Officers Act III of 1874, which sections are similar to the Potgi Rules, declaring the remuneration of an officiator to be his exclusive perquisite and to be inalienable. In Mysore, the chances are that a suit for a share in the emoluments of office secured by any agreement with the officiator

would be dismissed on the ground that such a contract was opposed to public policy. For these reasons, the amendments suggested by the Select Committee, *viz.*, the addition of the words, "It shall be competent to the Deputy Commissioner or Assistant Commissioner to assign to such successor during his minority an allowance not exceeding one-half of the emoluments attached to the office" in sub-clause (5) of clause 8 and the new sub-clause (6) of clause 8, should be disallowed.

MR. S. NARAYANA RAO.—I second this proposition. My reason for so doing is that the emoluments attached to these offices are so very small that, if shared between the officiator and the minor or the widow, the officiator will get very little and will not have sufficient inducement to do his work honestly and in a manner calculated to promote the good of the country. The emoluments should be given entirely to the officiator. There may occur cases in which it will be a hardship, but the interests of public service require that such hardship should not be taken into consideration.

MR. RANGIENGAR.—I beg to oppose the motion made by Mr. T. Ananda Rao, and seconded by Mr. S. Narayana Rao. It is no doubt very important to consider the efficiency of the public service, and in the interests of such efficiency, it is desirable that Government should secure the services of a man who will feel satisfied with the emoluments given to him. But at the same time, the object of this bill is to safeguard the interests of hereditary village servants. The fact that these appointments are made hereditary shows that Government expects that notwithstanding the small remuneration that is given to the village servants, persons will be willing to serve in the expectation that the office would be continued in their family on account of its hereditary nature, and we find people willing to serve and receive a remuneration which does not exceed the pay that is given to menial servants. It is this hope which induces people to remain in village offices and continue to serve Government. But if the servants know that, when they die sonless and the office passes out of the family, their widows would be left unprovided for and no portion of the emoluments would be given to them during their lifetime, I submit that it will take away from the attraction which village service has for them. Side by side with efficiency of public service, we have to take into account the impression which a rule of this kind would have upon the people. After all, it is only for a comparatively short time that this small allowance is made in favor of the minor son or widow. We expect the minor to become qualified soon and take office. If, during his minority, we do not see that he is enabled to receive some kind of education and thus qualify himself for the office which he is to fill after attaining majority, it will be very hard upon him. Similarly, in the case of the widow who is left destitute after the death of her husband who served the State faithfully. It is only in such cases that provision is required to be made. It is nothing but fair that, during her lifetime, she should receive a portion of the emoluments.

One of the reasons stated by Mr. Ananda Rao as to why the amendment made by the Select Committee ought not to stand is that such a departure from the rules would require the sanction of the Government of India. I submit that, as the bill is framed, it is calculated to invade several old rules and standing orders passed before the Rendition. Anyhow, the provisions of this bill are such that, in any view of the case, it is necessary to obtain the sanction of the Government of India. This particular reason need not therefore weigh with the Council in considering the desirability or propriety of granting a small concession that the Select Committee has recommended.

MR. NAGAPPA.—I beg to oppose the amendment, and in doing so, I endorse the opinion of Mr. Rangiengar. The objections raised by the First Councillor to the provisions made by the Select Committee in favor of minors and widows are threefold—firstly, that they disregard the Potgi Rules and as such will require the sanction of the Government of India; secondly, that some of the executive orders passed allowing maintenance were so passed in utter ignorance of those rules; and thirdly, that the efficiency of the public service will suffer by adopting the amendments. None of these objections is valid. As to the Potgi Rules, all existing rules and enactments will be repealed after the passing of this bill. Under the Instrument of Transfer, the bill has to receive the sanction of the Government of India. As several innovations have been adopted in this measure, there is no reason why these provisions about maintenance should not be introduced. When those innovations are

considered by the Government of India, these will also be considered. There is therefore no force in the first argument.

As to the second, I beg to say that the executive orders were not passed in utter ignorance of the Potgi Rules. The proceedings of the Government in such cases would show that the Government had deliberately departed from the Potgi Rules and accorded special treatment in the cases of minors and destitute sonless widows in deference to the opinion of several experienced Revenue officers. In this connection, I beg to be permitted to quote the opinion of the learned mover himself on this very draft when he was Revenue Commissioner:—

"I take it that under Section 6 of the Draft Regulation, the practice of registering widows as 'Baravarddars' in the place of holders deceased divided in interest from the other members of the family, will cease. I consider this to be too great an innovation in present conditions of Hindu society, and I would allow the widow to be registered, and given a maintenance allowance to be fixed by the Deputy Commissioner at a rate not exceeding one-third of the 'Potgi' and payable direct from the treasury during her life-time. An officiator can be appointed by the Deputy Commissioner himself to hold office during good behaviour and efficient performance of duties, and not during the good-will of the registered 'Baravarddar.' The officiator will be entitled to the remaining two-thirds of the 'Potgi.' It may be provided that the selection of the officiator shall be made as far as possible or convenient as indicated in Section 6 (3)." (*Vide* Para 13, page 27 of the Papers relating to the Draft Village Offices Regulation.)

It is very strange that the learned mover, who held such strong views upon this question both as Revenue Commissioner and as a member of the Select Committee which recommended these provisions, should have suddenly changed his mind and thought fit to bring forward this amendment.

As regards the third point that the efficiency of the public service will suffer, both the mover and the seconder have stated that the emoluments are so very small that, if divided, it will benefit neither the widow nor the minor. If the emolument is so small, I ask, how will it affect if one-third is given to them? It is very desirable that we should provide for the maintenance of the minor, for his education and also for the widow in certain cases. In the amendment suggested by the Select Committte, discretion is given to the Deputy Commissioner. Such being the case, I beg that the Council will pass the recommendations of the Select Committee and reject this amendment.

MR. SYED AMIR HASSAN.—The practice of giving a small allowance is still in existence in almost all places and I have not observed any difficulty in the operation of this practice.

MR. C. SRINIVASIENGAR.—The question raised is an extremely important one and its literature has been traced from the commencement by Mr. Ananda Rao. The trend of authorities is against the grant of any allowance to any member of the family who is not actually performing the duties of the office in question. There have been conflicting orders passed from time to time according to the circumstances of each particular case. As Mr. Nagappa has quoted the opinion of Mr. Ananda Rao himself in favor of it, so he might also quote my own opinion, recorded somewhere, that the grant of a maintenance allowance was not opposed to law and that humane considerations required that the practice should be continued in exceptional cases. I believe, if we had only sentimental grounds before us and were not making an enactment on the subject, we could easily take into consideration the circumstances of destitute widows and helpless children, and so on. But now we are legislating on the subject of village offices; we are laying down in a formal and legal manner what village offices are, who should hold them, what their qualifications should be and how they are to be remunerated. We are dealing with matters connected with the efficient administration of villages. That being so, the question is how efficiency of administration could be promoted, and the question whether a portion of the emoluments should be taken away from the performer of the office and given to somebody else is quite outside the scope of the Regulation. It has to deal only with the law relating to the administration of village offices, and it is a question whether any court would recognize any agreement entered into between the parties themselves regarding the sharing of the emoluments attached to village offices. The question is whether we are to take away a portion

of the emoluments from one to whom it ought to be given and give it to somebody else and how it is to be enforced. Are we to deduct it from the fixed emoluments and give it to another? If so, how can we enforce the strict performance of the duties in question? It is not always a cash payment. There may be lands. How are we to find out how much land is properly cultivated, whether the revenue is properly estimated, and how are we to get at that revenue and how is the apportionment to be made?

Then again, Mr. Rangiengar said that this was only an arrangement for a short time. A man may die leaving a young widow who may live for a considerable time, and in such a case, Government will have, as one of its duties, the duty of deducting the potgi due to the performer of the office and of paying it to the widow. I think that is a function which does not legitimately appertain to Government. Whether the emolument is land or assignment of revenue, or cash, the underlying principle is that the person that renders the service to Government is entitled to get the whole of the emolument. I understand that Government are quite prepared to concede that the wishes of the persons interested in the minor should be consulted in the appointment of the officiator. That being so, we are showing all possible concession to the minor. How we can help the unfortunate widow, it is difficult for me to say. But whatever it may be, legally there can be no sharing of the emoluments. Accordingly, I am of opinion that these provisions inserted by the Select Committee should be expunged.

There are two places where payment has been provided for, one as regards the minor and the other as regards the widow. The minor is to have a share of the emoluments in the case of all village offices, while the widow of only a patel and shanbhog is to have such a share; why this distinction has been made, I have not been able to understand.

MR. V. N. NARASIMMIENGAR.—Three reasons have been assigned to this amendment. The first is a political reason. The sanction of the Imperial Government will be required for this law, and will cover also the changes in previous rules, regulations, etc. The second is that the remuneration is small. I beg to say that the remuneration is not an irreducible minimum in every case. No doubt in some cases the remuneration of the patel or other village officer is very little, and in others it is just enough to keep body and soul together. But if a family can live on the emoluments by sharing it, I do not think we ought to object. A provision like this is very consistent with the principle underlying the whole of this legislation. This is not a cut and dry sort of measure. We do not pay the people for their work and dismiss them as soon as the work is over. We take into consideration many other things, humanitarian views, for instance, and I am of opinion that this provision ought to remain. The third reason suggested is that it will interfere with the efficiency of the public service. Hitherto the practice has been very largely resorted to and so far as I know—and I think I have had, one thing with another, a sufficiently long revenue experience—not only the patel and shanbhog, but even nirganti, toti and talari minors, have had allowances, and still no complaints have come, and I think this reason ought not to cause any apprehension in the passing of the Select Committee's amendment. The patels and shanbhogs alone are mentioned in sub-clause (6), as I believe they loom large in the eyes of the legislators. Why the others have been omitted I am unable to say. I propose they also should be included.

MR. T. ANANDA RAO.—Sir, before the question is put to the vote, I wish to say a few words with reference to what has fallen from Mr. Nagappa in opposition to the amendment which I have proposed. I must confess that I had no idea that my consistency mattered at all or mattered much before the requirements of the public good. It is true, as quoted by Mr. Nagappa, that some years ago as Revenue Commissioner criticising the bill which had been circulated for opinion, I suggested provision being made out of official emoluments for the maintenance of the widow and the minor heir. But that idea was not adopted in the draft of the bill which the present Government found before them. It is true also that I joined the Select Committee in their proposal to insert these provisions in the bill. The fact is that my own opinion (and I believe the case was the same with the rest of the Select Committee) was formed upon a perusal of the proceedings of the Dewan as they are given in the editions of the Revenue Manual issued from time to time,

that is to say, in the shape of bare orders or decisions without preamble and without a statement of the circumstances of the locality or the case concerned. But, on my attention being drawn by high authority to the evil of those proposals, it was my duty to examine the subject *de novo*. This I did, and I found good cause to change my opinion in the matter. Upon a close examination of the facts and features of the cases in which the several orders were issued, I was convinced that the proposals were not conducive to the interests of the village service. This conviction was reached only recently, and I have felt it my duty to give effect to my convictions. Otherwise, I should belong to that class of persons of whom the late Mr. C. Rangacharlu used to say: "They had never a doubt, and they never changed their mind." My personal consistency or inconsistency is of no consequence in this matter in which Council should form their opinion entirely with a regard to the public interests involved, to the requirements of the efficiency in the village service. I beg that Council may judge of the question entirely on its merits apart from my individuality.

More important than my inconsistency is the point on which Mr. Nagappa laid stress, *viz.*, that the hereditary character of the village office would be impaired if the Select Committee's proposals in question were dropped. With regard to this, I have only to point out that the hereditary character of the office is amply provided for when it is declared that the office shall vest in a qualified member of the family and that it is not, unless no such member is forthcoming in the whole family in all its branches and ramifications, that a stranger should be appointed. If the payment of a maintenance allowance from the official salary to the widow or the minor is an essential feature of heredity, it would be only proper to make a similar payment to all the widows and minors who would, under the ordinary provisions of the law of inheritance, be entitled to succeed to the estate of the last holder of the office, instead of only to the nearest of them as proposed by the Select Committee. This of course is out of the question. In these circumstances, I submit, the minor and the widow must, like the other members of the family, be left to depend on the family estate generally, irrespective of the emoluments of office which the Select Committee have declared in clause 5 of the bill shall not be liable to be transferred, partitioned or encumbered in any manner whatsoever. Any deduction in the salary of the office payable to the officiator should only impair the efficiency of the officiator and lead to corruption and peculation such as cannot fail to have an unhealthy influence on the village service generally.

For these reasons, I would ask the Council to agree to the motion that the provisions in question be omitted.

MR. C. SRINIVASIENGAR.—There is another provision in the bill which authorizes the amalgamation and grouping of villages. It is done in the interests of public service. In place of two or three who have been performing the duties of their respective offices and enjoying the remuneration attached, one man is appointed. The other two are not allowed to partake in the emoluments. The idea is that the man who performs the duty must get the emolument. It is really hard that the other two should be told to go home, deprived of what they had been enjoying from time immemorial. There is no disqualification on their part, no fault of theirs, yet the measure is deemed necessary and is ordered, and the result is they lose their potgi. How is their case different from that of minors and widows?

MR. NAGAPPA.—A word of reply is necessary. This amalgamation was one of those drastic measures which Government had recourse to but very seldom, and there were only two instances in the last thirty years or so. In 1877 the abolition of Sircar Shanbhogs was ordered, and in 1879 Magni Shanbhogs were abolished. These were drastic measures.

MR. C. SRINIVASIENGAR. I do not refer to those measures. The procedure I have alluded to is one of common occurrence.

MR. S. NARAYANA RAO.—In the interests of public service, amalgamation of villages is effected with a view to regulate the remuneration to be given to these officers, so as to make them do their duty honestly. If these considerations induce us to make such alterations as amalgamation of villages and so forth, I do not see why the officiator should not get the whole of the emoluments for the very same considerations. The whole principle is the efficiency of the public service, and if we have an eye to that, every other consideration must give way to it.

PRESIDENT.—Before I put this proposition to the Council, I should like to make a few observations regarding the amendment proposed by the First Councillor and also regarding the remarks that have been made by Hon'ble Members of this Council. I think that, as observed by Mr. Srinivasiengar, those Hon'ble Members who are opposed to the amendment have lost sight of the fact that we are now legislating in regard to village offices and the remuneration attached to such offices. In legislation of this kind, I do not think that any considerations regarding the provision to be made for the families of the village officers or for their minor sons are in place. We are not now making any provision for Provident Funds or legislating on humanitarian lines. What we are concerned with is how best to promote the efficiency of the village officers. There is no provision in any legislation, either in Madras or Bombay, where the conditions are the same as in Mysore, for diverting a portion of the salary of the officiator for the maintenance of the widow or the minor son. It was only on two occasions that legislation has been attempted on this question. During the days of the British Commission, we had no Legislative Council, but orders issued under notifications of the Government of India had the effect of a legal enactment as far as the State was concerned. One of such notifications was what are called the Potgi Rules of 1874. These rules have deliberately declared that the remuneration attached to the offices of patel and shanbhog shall be the sole perquisite of the officiator and no other member of the family shall have a claim upon it, thus affirming a general principle that whenever a salary is attached to an office, the man who officiates should get it and no other member should share it with him. If you will note the term "Potgi" itself, it literally means "remuneration" or "salary" for the maintenance of the officiator, which is fixed on a scale sufficient to remunerate him for service rendered. It is not intended for the benefit of the joint family or the hakdar's family whether of shanbhog, patel or other class of officers. It is not a provision made for a hereditary office. If you will remember how potgi is settled, you will see that it is intended entirely as remuneration for the discharge of the functions attached to the hereditary office and is not intended for the support of the family or the maintenance of the son or the widow. In old times, lands had been granted for village service. In some places there were also cash payments. There were also grain payments made by the villagers. At the time of the Survey Settlement, Government found that these irregular payments and the system of remunerating by assignment of lands were attended with abuses, and they also felt the necessity of bringing all these different modes of remuneration into one form, and deciding what the salary should be for each of the different village offices. When the scale had been fixed, they took into consideration the emoluments resulting from the land and from cash payment and when the former exceeded the amount required for salary, half such excess was put on as additional jodi and the land left in the possession of the hakdars. When fixing potgi, the two expressions "salary" and "officiator" came into use for the first time, that is "salary" attached to the office, and "officiator" who was distinguished from the man having the *hak* or the hereditary right to the office, although the *hakdar* may also be the officiator. The scale of salary having been once fixed, it should be treated as any other salary is treated. If Hon'ble Members suggest that a provision should be made in virtue of the office being made a hereditary one for the maintenance of the widow or the minor son from the potgi assigned to the officiator, on the same analogy we may ask Government to legislate for some provision being made for the families of Government officers out of the salaries assigned to them. I do not lay much stress on the fact of the departure proposed being in violation of a notification of the Government of India which has the force of law, because as observed by some of the members, we are legislating again now and it is open to us to reconsider all the laws that have been previously passed, and make a fresh start. But as far as the principle is concerned—I am now referring to the different orders passed from time to time by Government allowing these maintenances to the widow and the minor son from the potgi—it is precisely this departure from the spirit of the Potgi Rules that was commented on by the First Councillor in moving the amendment. This departure has somehow been made and persisted in, and it behoves us now when we are again legislating to see how to remove all the irregularities that have crept in in recent years.

I have nothing further to say, and I would now ask the members, if there are no further remarks to be made to divide on this question, as there is difference of opinion on the amendment before the Council.

One other remark I would make is that there is generally a private understanding between the officiator and the hakdar in many places under which the former in consideration of his being allowed to officiate as gumasta, gives a certain portion of the remuneration to the hakdar; and I believe this practice is to some extent prevalent in Bombay also. But it is one thing to know that such a practice exists and another to give legal recognition to it. Provision of the kind made by the Select Committee is quite outside the scope of the present Regulation and we should be landed on all manner of difficulties when we once attempt to regulate the distribution of the potgi. The Bombay High Court's opinion on an analogous question that arose in Bombay should be decisive as regards the subject now under discussion. It is also worthy of notice that the hereditary principle is more fully and consistently recognized and given effect to in Bombay. The distinction attempted to be set up between officiator and gumasta or deputy has no warrant either in the Potgi Rules or the Bombay practice.

Mr. Ananda Rao's amendments were put to the Council and were carried by a majority of six to four, one not voting.

The Council adjourned to the next day (27-2-08).

THURSDAY, 27TH FEBRUARY 1908.

The Council met at 3 P.M.

PRESENT. -All except Mr. Kantharaj Urs.

CLAUSE 8, SUB-CLAUSES (2), (3) AND (4).

MR. C. SRINIVASIENGAR. I beg to move that sub-clauses (2), (3) and 4 of clause 8 be redrafted as follows : -

For sub-clause (2) and (3) of clause 8, substitute the following:—

" (2) Subject to the provisions of sub-section (1) and save as hereinafter separately provided in the case of minors and subject also to any declaration made by the Deputy Commissioner under Section 7, the succession to the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, when such office is permanently vacant, shall devolve upon a single person who shall be (*a*) one of the immediate legal heirs of the last holder of the office in the order of seniority, (*b*) failing such heirs, one of the members of the remoter branches of the family in the order of the seniority both of such members and of such branches, and (*c*) failing these also, one of the duly recognized hakdars in the order of their importance as determined under rules made by Government under Section 23, or one of his heirs according to the order of precedence laid down in (*a*) and (*b*) above. In the absence of persons entitled as above under (*a*), (*b*) and (*c*), the Deputy Commissioner, or Assistant Commissioner may appoint any other person duly qualified under sub-section (1), subject to such appointment, unless sooner determined by a decree in a suit hereinafter provided for, being cancelled in favor of a person falling under (*a*), (*b*), or (*c*), in the event of such person being forthcoming at the end of three years from the date of the appointment."

Succession and appointment to permanent vacancy.

For sub-clause (4) of clause 8, substitute the following :

" (3) A vacancy caused by the dismissal or removal without a declaration by the Deputy Commissioner under Section 7, of the holder of the office of patel, shanbhog, nirganti, toti or talari of an unalienated village or by the suspension of such holder, shall be deemed a temporary vacancy until the death of such holder, or the termination of his suspension, as the case may be ; and the Deputy Commissioner or Assistant Commissioner shall fill up such temporary vacancy in accordance, as far as possible, with the provisions of sub-section (2). In doing so, it shall be competent to the Deputy Commissioner or Assistant Commissioner, if he considers desirable, to supersede the undivided members of the family of the dismissed, removed or suspended holder."

Filling up temporary vacancy.

The present sub-clause (5) becomes sub-clause (4) and the only modifications required in it are :—

In the third line, after the word "office" add "in accordance with the principles laid down in sub-section (2)" and in the last line omit the words "and 3."

In sub-clause (2) of clause 11, after the words "eligible for appointment" add "or in the case of a minor for registration as successor."

MR. RANGIENGAR.—Supposing the son of the senior uncle is younger than the son of the junior uncle, what will be the effect of the expression "in the order of seniority?"

MR. SRINIVASIENGAR.—First of all the competition is between the members of the senior branch and then come the members of the junior branch.

MR. RANGIENGAR.—The difficulty is when the men are all of the same rank and they share equally. Then the question of primogeniture in a way comes in, though it is not so called; but, of course, the meaning is clear. I think the amendment is otherwise unobjectionable.

MR. RANGASWAMI IYENGAR.—Would "legal heir" mean, heir according to the law of succession to which he is subject? In the expression 'in the order of seniority,' what does seniority mean, seniority in age or seniority in rank?

MR. SRINIVASIENGAR.—My answer to the first question is "yes." As to the second, the competition is first between branches and then between the members of each branch.

MR. RANGASWAMI IYENGAR.—Where do grandsons come?

MR. RANGIENGAR.—When the grandsons are considered they come under heirs more remote. First of all, account is taken of immediate heirs and when we don't find anybody in that group, we go to persons more remote.

MR. RANGASWAMI IYENGAR.—'Remote' seems to refer to collateral branches. In the case of grandsons, I should say they are all coparceners. The use of the word 'seniority' leads to doubt. Let us suppose A dies leaving sons B, C and D. B is dead leaving two sons. Now according to this rule, who will be entitled to succeed?

MR. NARAYANA RAO.—May I know what the existing practice is?

MR. RANGASWAMI IYENGAR.—The grandson by the eldest son (deceased), succeeds in preference to the sons.

MR. SRINIVASIENGAR.—Mr. Rangaswami Iyengar's doubt is now partly mine also. The competition is between a grandson and his uncle. As the section is now drafted, the son will get the office in preference to the grandson.

PRESIDENT.—If the family is undivided, would the hak go to the son or the grandson? The law on the point may be made clear by indicating the rule of primogeniture in the draft itself. In selecting the person, the Madras Government is guided by the principle of primogeniture. The office being a hakdari one, why may not the expression used in the Madras Act be adopted?

MR. SRINIVASIENGAR.—The expression "seniority of descent" may perhaps be adopted.

MR. NAGAPPA.—I read the following two illustrations from the "Standing Orders of the Madras Board of Revenue"—Chapter XIII, page 456 :—

"(1) The last permanent holder of a village office leaves behind him two sons A and B, of whom A is the elder, and two grandsons by A, *i.e.*, C and D. A, the eldest son, will succeed his father.

"(2) If, however, A is dead or disqualified, the eldest of the remaining three heirs, B, C and D, succeeds in accordance with the rule that when an estate descends to a single heir, the presumption is that it will be held by the eldest member of the class of persons, who would hold it jointly if the estate were partible."

This is the interpretation given in the Madras Board's proceedings. But this is not the practice here. Before adopting any amendment, let us be definite as to the principle to be followed in such cases. Where A, the permanent holder of a village office had three sons, B, C and D, and B is dead leaving behind a son E, then the question is whether E or C should succeed on the death of A.

MR. NARAYANA RAO.—According to the wording of sub-clause (2) as in the amended bill "succession shall be regulated by the ordinary provisions of the law applicable to the last holder." According to the ordinary provisions of the Hindu Law, all the sons would share in the property equally and the deceased son would be represented at the division by his issue. This is the ordinary law. There is an exception to this ordinary law in the Hindu Law. The law of primogeniture is known to the Hindu Law as in succession to impartible estates, etc. Let us take the case of a holder dying, leaving a grandson by a predeceased eldest son and grandsons by a predeceased second son and a third son. If we apply the ordinary Hindu Law, the third son alone would succeed to the exclusion of the grandson by the first son and the grandsons by the second. But if we bring in the law of primogeniture, then the eldest son's son would succeed to the exclusion of the descendants of the second son and the third son. This is provided for in the amended bill. Now, the draft of Mr. Srinivasiengar also proceeds on the same lines. But the difficulty arises on account of the expression "in the order of seniority."

MR. RANGASWAMI IYENGAR.—Then why should we not have the same words as in the original sub-clause (2) itself? It may be tested by concrete instances, whether it does not cover all cases and satisfy all conditions. I would propose that sub-clause (3) of the amended bill be omitted, the present sub-clause (4) numbered as sub-clause (3) and the words "subject to the provisions of sub-sections (1) and (3) and save as hereinafter separately provided in the case of minors and subject also to any declaration made by the Deputy Commissioner under Section 7" be inserted in the beginning of sub-clause (2). We need not make a distinction between permanent and temporary vacancies.

MR. NARAYANA RAO. According to this, the son of a deceased son will not always succeed. If a Mahomedan who is not subject to Hindu Law be the holder of the office and a question arises on his death as to who should succeed, the surviving grandson of a predeceased eldest son or one of two other sons, then according to the Mahomedan Law applicable to the last holder, the immediate heirs will be the sons, and the grandson by the predeceased son will be excluded by the eldest of the surviving sons. In these circumstances, there will be a conflict between the two systems of Law, Hindu and Mahomedan. If the policy of Government be to give the office to the grandson by the eldest son to the exclusion of the other sons, he will not get it under the Mahomedan Law, when the last holder is a Mahomedan.

MR. RANGASWAMI IYENGAR. There has not been any appointment in practice among Mahomedans. But the principle is that the law applicable to the last holder will be applied. The competition is between legal heirs.

PRESIDENT.—According to the Hindu law, we propose to recognize the grandson by the eldest son in preference to the second son.

The next question is whether we shall introduce the expression "subject to sub-section (3)" as proposed by Mr. Rangaswami Iyengar and differentiate between permanent and temporary vacancies.

MR. RANGASWAMI IYENGAR. The addition of the words "subject to sub-section (3)" is to show that in some cases, the devolution will be somewhat different.

MR. SRINIVASIENGAR. If I understand Mr. Rangaswami Iyengar aright, he wants sub-clause (3) to be referred to in sub-clause (2), and the word "permanent" removed. I don't know if there is any object to be gained by the omission of the one or the insertion of the other.

MR. NARAYANA RAO. Though there is a general rule of interpretation that a general provision is controlled by a special one, yet for sake of clearness, such qualifications are repeated in several instances; and as there is some clearness to be gained, sub-clause (3) may be referred to in sub-clause (2).

PRESIDENT. For sub-clauses (2) and (3) the following will be substituted.

Succession and appointment to permanent vacancy.

"Subject to the provisions of sub-section (1) and save as hereinafter separately provided in the case of minors and subject also to any declaration made by the Deputy Commissioner under Section 7, the succession in the case of a permanent vacancy (*a*) shall be regulated by the ordinary provisions of the law applicable to the last holder, provided that it shall devolve on a single heir and that, where there are more persons than one who would, under the ordinary provisions

of the said law, be entitled to succeed to the last holder of the office, preference shall be given to the eldest member of the eldest branch among those persons, and (*b*) failing these, shall devolve on one of the duly recognised hakdars in the order of their importance as determined under rules made by Government under section 23, or one of his heirs according to the order of precedence laid down above. In the absence of persons entitled as above under (*a*) and (*b*), the Deputy Commissioner, or Assistant Commissioner, may appoint any other person duly qualified under sub-section (1) subject to such appointment, unless sooner determined by a decree in a suit hereinafter provided for, being cancelled in favour of a person falling under (*a*) or (*b*), in the event of such person being forthcoming at the end of three years from the date of the appointment."

This was agreed to by the Council.

Sub-clause (4) was next considered and it was resolved to insert the word "removal" after "dismissal" in the second line and the words "if he thinks proper" after "may" in the sixth line, to substitute "such holder" for "the dismissed or suspended officer" in the eleventh and twelfth lines, and to omit the words "and (3)" in the fourteenth line and in the proviso, of sub-clause (4) of the bill as amended by the Select Committee.

PRESIDENT.—Before finishing with clause 8, we have to consider certain other amendment of which notice has been given.

MR. B. NAGAPPA.—I beg to move that the following be added as a new sub-clause to clause 8 :—

Notice of adoption when heir is adopted.

"In any case in which any holder of the office or his widow shall adopt an heir, a notice of such adoption shall within three months thereof be made to the Deputy Commissioner, by such holder or his widow or in case of their death, by such adopted heir or by the guardian of the latter and the Deputy Commissioner shall register the name of such heir accordingly."

"But if such adoption shall subsequently be set aside by decree of a competent Civil Court, the Deputy Commissioner shall remove such name from the register at the instance of the person aggrieved."

Amendments regarding the insertion of new clauses in the cases of adoption by the holder of the village office or by his widow are necessary to put an end to false cases of adoption. Cases are not wanting to show the tendency of late to set up the claims of an adopted son, where a rich issueless person dies without making any will. The law of adoption among Hindus does not require the factum of adoption to be evidenced in writing nor does it require registration. Hence it is easy for unscrupulous persons to set up false cases. It is undesirable that revenue authorities should decide cases of adoption. I therefore propose that Revenue Courts should not recognize such adoption unless notice of it is given within three months of such adoption or a decree obtained by a Civil Court as provided in the amendments.

I beg to invite the attention of this Council to the provision to the same effect made in the Bombay Act. The Bombay Government have wisely provided that if an adoption takes place, it should be reported within three months. So there will be some record of the fact in the Collector's Office, and it will facilitate the selection to the office when a vacancy occurs. If the adoption is reported, the revenue authorities will recognise such adoption; otherwise, they will have to refer the person to the Civil Court to establish his right. It is a desirable provision and I see no reason why we should not with advantage borrow the same. Hence this amendment.

MR. RANGIENGAR.—I beg to second this amendment. I beg to submit that as the law at present stands, a written authority to adopt given to a widow by her husband requires registration, but not an oral authority. The law does not declare that the authority to adopt should be in writing. Questions of adoption very often crop up in Civil Courts and very great inconvenience is experienced by the courts and the public on account of the uncertainty attending the proof of adoption. Village service is a matter in which the Government is interested and it cannot afford to allow the parties to litigate for any length of time or concern itself in holding an enquiry as to the truth or otherwise of the adoption. In the interests of public

service it is desirable that whenever an adoption is made, notice should be required to be given to the Deputy Commissioner of the fact of the adoption within a certain time after it is made, so that it may serve as a piece of evidence in future when the adoption is disputed by anybody and also prevent the parties from setting up a false adoption. If the Registration Act had required that the authority to adopt and the adoption should be registered, this provision would have been unnecessary, but as it does not do so, it is desirable that a provision of this kind should be made.

MR. A. RANGASWAMI IYENGAR.—I think we cannot follow the provisions of the Bombay Vatandars Act in all these respects. These provisions were made for a special purpose in that Act. Under it, all the vatandars are registered, and the Collector keeps the register. Here in our Province, as regards village officers, we do not keep a register of the heirs of the village officers. The adopted son is only one of such heirs; there may be grandsons and great grandsons, remote heirs according to clause 8, and heirs of all sorts according to Hindu and Mahomedan Law, and unless there is a provision for registering all the heirs, no object will be gained by registering the name of the adopted son alone. So I would appeal to the mover and the seconder of the amendment to withdraw it. The Vatandars Act of Bombay is a peculiar one and the provision therein made is made for a special purpose as the hakdars there have the right to nominate officiators and the Collector has to keep a register of hakdars and vatandars.

MR. RANGIENGAR.—What has led Mr. Rangaswami Iyengar to suppose that a register of the *hakdars* is kept in Bombay is the wording of clause 24. The words used are "Representative Vatandars." Perhaps he understood them to mean "Representative of the Vatandar." But the representative vatandar is a person who performs his duties by deputy. So a register of officiators is kept, as we have in our country. It cannot be said that patels and shanbhogs in this Province are not entered in the register of village servants. Their names are entered. In Bombay too, the Vatandars Act does not provide that the heirs should be registered, or that there should be a register of the heirs of the vatandar. The mere fact that that Act deals with vatandars and ours with village officers does not stand in the way of our introducing the amendment.

MR. S. NARAYANA RAO.—I wish to know whether the mover of this amendment intends that the adoption by only the holder of the office should be registered, or the adoption by any member of his family. If the provision applies to the holder alone, then it will not serve any purpose, because the holder may die without making any adoption and the next heir may be a person who claims to be the adopted son of the cousin of the late holder. So no object will be gained unless we make it a rule that an adoption by any member of the family, however remote, should be registered.

PRESIDENT. I do not think the conditions here and in Bombay are the same. It is difficult to argue by analogy. The provision in the Bombay Act refers to a different state of things altogether. I think our case will be strengthened if we have a precedent in Madras, as it would apply to the state of things in Mysore better than any provision drawn from the Vatandars Act and the Vatandari system in Bombay.

MR. NAGAPPA.—The object is that the Revenue Courts may not be flooded with these cases.

MR. C. SRINIVASIENGAR. I do not know if there is any such difficulty as regards adoption. Why should the Revenue authorities keep the vacancy open and ask the parties to go to a Civil Court for the mere reason that a notice was not given at the time? Are we to tell the party your adoption was not duly notified to Government by the deceased or his widow; therefore you had better go to a Civil Court and obtain a decree? Is the appointment to be kept open till then? We have a complete machinery on the Revenue side and the Revenue Officers are competent to go into the matter.

MR. NAGAPPA. Then there will be two tribunals to adjudicate on this question, one the Revenue Court and the other the Civil Court. This may lead to a conflict between the two.

MR. C. SRINIVASIENGAR.—According to the amendment, when there is a controversy as to the heirship, the matter will be taken out of the jurisdiction of the

Revenue authorities who must abide by the decision of the Civil Court. We have to go back and cancel our arrangements. There is to be no finality about them and we have to be guided by the judgment of the Civil Court whether before, at or after the time when the arrangement is made.

MR. NAGAPPA.—If not, we shall not be respecting the judgment of the highest court.

PRESIDENT.—The main object of our creating village offices is to secure efficiency of public service, and in so securing efficiency, if we can respect the principle of hereditary succession, so much the better. We shall endeavour, as far as possible, to combine the two principles. But to give prominence to the principle of hereditary succession and postpone making arrangements for the efficient discharge of village offices, pending the decision of the question of succession by the Civil Court, would be certainly undesirable. I do not think this has been done before, nor is it the principle that has been followed in dealing with appointments of village officers. If I understand the principle of making these appointments aright, we do not put off making permanent arrangements pending adoption of an heir by the widow or the last holder or any adjudication by a Civil Court. With all the materials available at the time, we make the selection that we consider the best under the circumstances for the efficient discharge of the village office, and in making such arrangements, we keep this principle of hereditary succession in view, so that this comes in only in subordination to the other principle. But under the Vatandars Act the condition of things is quite different. They legislate for keeping alive the *haks* and rights of these hereditary offices, and adopt an elaborate procedure for registering all those entitled to claim office, so that they may be consulted when the appointment is made. We have undertaken no such obligation here in Mysore. We cannot disturb the arrangements made, because a decree has been produced long after the appointment has been made by the Revenue authorities. Not that we do not give every consideration to a decision of the Civil Court; appointments made are sometimes revised in the light of those decisions; I am only declaring the existing practice. We place the efficiency of public service foremost, and in securing it, if we can recognize the principle of hereditary succession also, we do so to the best of our ability.

As the amendment has been moved and seconded, I will put it to the Council.

The amendment was put to the Council but was not carried, the votes being two *for* and nine *against*.

CLAUSE 11.

PRESIDENT.—I think this is taken from the Madras Act. I am afraid it is inapplicable to the conditions of Mysore. We do not disturb the possession with regard to *manyam* lands as long as they are in the possession of the hakdar's family. We take only the *jari* amount. The officiator has no status at all in regard to that land. He is entitled only to the potgi, and how that potgi is manipulated is a matter that rests entirely with Government. This has no analogy either in Bombay or Madras, and the difficulty arises by taking the provisions from the Madras Act. There is an anomaly in Mysore procedure. In Madras, they have enfranchised all inam lands at, I believe, $\frac{2}{5}$ths assessment and completely converted them into private property of the inamdars and have resorted to other measures for remunerating village officers. Potgi is arranged in this way. Suppose there is inam land attached to village service, and it is not only in the hands of the officiator for the time being, but also of the collateral branches of the family. There may be about six or ten numbers. What the officer who settles the potgi does is, to take the *jari* portion of the assessment on these lands, and cash payments attached to the office into consideration, and when these are in excess of the potgi fixed, half the excess is put on the service land as additional jodi. When the emoluments are below the amount of the scale, he raises the jodi until it reaches the full assessment; he increases the jodi not only on service lands in the possession of the *hakdar* but also on those in the possession of collateral branches. In settling the revenue to be derived from a particular tract, he says that with a view to provide for the remuneration of village officers, he enhances the assessment by so much. I was going to say incidentally yesterday that if you want to provide for the maintenance of widows and minors, you will have to enhance the potgi and the additional potgi

will have to come from the tax on land. You may not know it, but you will have to contribute all the same.

However, to return to the question of potgi, when potgi is fixed, however high the additional jodi may be, in some cases equal to the assessment, the lands continue still as service lands in the hands of holders, not necessarily in the hands of the officiator. When potgi is revised, you make them contribute also, if necessary, by levying additional jodi up to the assessment. This is the state of things in Mysore. All the calculation of emoluments from land is made by the Survey Department and the officiator has nothing whatever to do with it, and he cannot claim the land nor any emoluments from the land. He is entitled only to whatever potgi is settled by the Survey Department.

MR. RANGASWAMI IYENGAR.—Is the holder of an office entitled to alienate the *manyam* lands in his possession?

PRESIDENT.—No, he is not.

MR. RANGASWAMI IYENGAR.—Supposing he alienates it and dies, and his son succeeds to office, what should he do to get the land back? Is the man to move for the recovery of the land?

PRESIDENT.—He cannot. Government may put on full assessment on the land in the hands of the stranger.

MR. RANGASWAMI IYENGAR.—Is there any provision authorising the Government to levy full assessment? We have been going to the length of insisting on the holders to cancel alienations and get back the lands and preserve them as *manyam*.

PRESIDENT.—That is because there is a breach of the rule passed by Government that Inam lands shall not be alienated. This is the anomaly in the Mysore procedure. It is the Government which, by summary process, recovers the land when it is alienated or cancels the alienation. There is no suing in a Civil Court or any resort to the Revenue Court.

I am glad I have had this opportunity of disabusing the minds of Hon'ble Members about providing for the maintenance of the widow and the minor son. We have fixed what will suffice for the bare maintenance of the officiator, and if you want a portion of it to go to the minor or the widow, the assessment will have to be raised proportionately.

The Council adjourned to the next day (28-2-08).

FRIDAY, 28TH FEBRUARY 1908.

The Council met at 3 P.M.

PRESENT.—All except Mr. M. Kantharaj Urs and Mr. V. N. Narasimmiyengar.

PRESIDENT.—We have now to consider clause 11, sub-clause (2). This provision is taken from the Madras Act. (The corresponding section in the Madras Hereditary Village Offices Act was read by the Secretary.) I have to apologise to the Council for going on in this desultory manner. The law which we are enacting affects the fundamental principles of the constitution and working of village officers and it has to be carefully considered. We must decide the questions that arise not on abstract or general principles, but with reference to custom and the law applicable to them and as there seems to be some difference of opinion on questions of principle it is found necessary to consult the existing law and also consider the questions which should properly have been dealt with, when the bill was framed or when it was before the Select Committee. So it has become necessary for me to go into questions of principle.

The Madras section goes to the very root of the thing. As far as I can see, this is a controversial point. As matters stand now, this is likely to give rise to considerable difference of opinion and discussion in Council. Shall we therefore put off further proceeding with the bill and refer it again to the Select Committee to decide questions of this kind?

MR. ANANDA RAO.—The general impression is that no suit of this kind is likely to be filed.

MR. SRINIVASIENGAR.—Suits *will* arise. The only question for consideration is whether the party should be referred to a civil suit in the matter.

MR. ANANDA RAO.—Our idea was that he might go to the Civil Court for the recovery of the possession of the land and to the Revenue Court for the emoluments. In this connection reference may be made to sub-clause (1). I do not know what kind of case would possibly arise, which cannot be properly decided by a Revenue Court.

PRESIDENT.—Then you would omit proviso (ii) to sub-clause (1).

MR. T. ANANDA RAO.—What is the objection?

MR. SRINIVASIENGAR.—When a service land was made the subject-matter of a suit, I am not aware of any case where the parties were referred to the Civil Court in such circumstances. The provision in the bill is not in strict conformity with practice. There is, however, no amendment by anybody as far as I can see. Government may suggest an amendment and it may be formally considered. If it is vetoed, it may be submitted to His Highness with a full statement of the case. The fact is, I would myself suggest an amendment, but I did not give notice of it. I think no Civil Court has jurisdiction in such cases. What the bill says is that when the question of emoluments is before the Revenue Court in a suit instituted there, that Court has only to take cognizance so far as the cash is concerned. This is contrary to the practice which to my knowledge has all along prevailed and I think it is wrong.

PRESIDENT.—That is precisely my difficulty also. It had better be referred to the Select Committee.

MR. SRINIVASIENGAR.—This is a small matter, and it is undesirable that the whole bill should on its account referred to the Select Committee. At the next meeting the Government may propose an amendment and if that is lost, the case may be submitted to His Highness. Till now we have gone on with the several provisions of the bill irrespective of any formal amendment or motion. If you think fit, you can authorise this question to be discussed now whether there is a motion or not, provided any one member here is allowed to propose an amendment.

MR. K. P. PUTTANNA CHETTY.—Under this sub-clause, might not disputes between sharers of inam lands be made cognizable by Civil Courts? When there is a question as to possession between private parties, who enjoy the inam lands, it seems it ought to be made cognizable by Civil Courts. There is no question of the land being inam, but there is a question as to possession as between the members of the family. The point is whether such a suit would lie in the Civil Court or the Revenue Court. We may assume a case in which the officiator is not a party to the suit.

MR. SRINIVASIENGAR.—Such a case would not come under this Regulation.

PRESIDENT.—Is there any provision for the bill being referred to the Select Committee at this stage?

MR. NAGAPPA.—There is no provision like that. But we can take Mr. Srinivasiengar's suggestion. Please refer to Rule 46 of the Rules for the conduct of business of the Legislative Council. The mover of the bill may move that the bill be considered at a subsequent meeting.

MR. SRINIVASIENGAR.—In connection with the Estates Land Bill in Madras, several members proposed that it might again be referred to a Select Committee since it was an important measure and since several members of the Select Committee had ceased to be members of the Council, and several important matters had not received the scrutiny that they deserved. No technical objection was raised to the re-reference suggested. But it was held that such a step was unnecessary, and that, if anything, it would simply further postpone the consideration of a measure which had so long been pending. In our case likewise, there is no technical difficulty.

If this Council is of opinion that the bill requires re-examination, I don't think there is any objection to its being referred back to the Select Committee.

PRESIDENT. —If the members are agreeable, the consideration of the bill may be postponed as there are some questions of principle involved in this section as well as in one or two other sections. I have to apologise to the Council for not having looked into them earlier. If the Council agree to the suggested course, this bill may be postponed for further consideration next week. If you think fit, we may take up the Police Bill now or we may consider it along with the former and close this day's proceedings. I am sure that if any amendment is intended to be moved, the mover will give notice of it before the Council meets next.

It was decided to take up the Police Bill along with the Village Offices Bill and the next meeting was fixed for the 23rd March 1908 (Monday).

V. P. MADHAVA RAO,
President.

SUPPLEMENT TO

The Mysore Gazette.

PUBLISHED BY AUTHORITY.

BANGALORE, THURSDAY, MARCH 19, 1908.

Addendum to the Proceedings of the Mysore Legislative Council published in the Supplement to the *Mysore Gazette* dated 12th March 1908.

Insert the following on page 43 after the words "The amendment was put to the Council but was not carried, the votes being two *for* and nine *against*" that is, after the 35th line :—

CLAUSE 9.

MR. K. P. PUTTANNA CHETTY.—Sir, I beg to move that the word "given" be substituted for the word "reasonable" in the expression "within a reasonable time" occurring in this clause. If the words used be "reasonable time" and a question arises as to what is "reasonable time," it will be open to the holder to say that the time given to him was not reasonable. The words "in a given time" as occurring in Rule IV of the Land Revenue Rules of 1890, quoted at page 52 of the Land Revenue Manual, would be better and may therefore be adopted.

MR. NAGAPPA.—I think it would be better to fix the time. This will compel the holder to make the appointment within the time specified.

The Council resolved to adopt the words "within a *given* time," instead of the words "within a *reasonable* time."

By Order,
K. MYLAR RAO,
Secy., Mysore Legislative Council.

SUPPLEMENT TO

The Mysore Gazette.

PUBLISHED BY AUTHORITY.

BANGALORE, THURSDAY, APRIL 9, 1908.

Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Council Chamber at the Public Offices, Bangalore, from Monday the 23rd to Thursday the 26th March 1908.

MONDAY, 23RD MARCH 1908. THE COUNCIL MET AT 3 P. M.

PRESENT.

V. P. MADHAVA RAO, ESQ., C.I.E., Dewan (Presiding).

Ex-officio Members.

T. ANANDA RAO, ESQ., B.A., (First Councillor).
K. P. PUTTANNA CHETTY, ESQ., (Second Councillor).

Additional Members.

Official.

RAJAKARYA PRAVINA A. RANGASWAMI IYENGAR, ESQ., B.A., B.L.
H. J. BHABHA, ESQ., M.A.
RAO BAHADUR M. MUTHANNA, ESQ.
S. NARAYANA RAO, ESQ.
M. KANTHARAJ URS, ESQ., B.A.

Non-official.

RAJAMANTRA PRAVINA C. SRINIVASIENGAR, ESQ.
V. N. NARASIMMIYENGAR, ESQ.
M. C. RANGIENGAR, ESQ., B.A.
B. NAGAPPA, ESQ., (Bar-at-law).
SYED AMIR HASSAN, ESQ.

K. MYLAR RAO, ESQ., B.A., B.L. (Secretary).

CLAUSES 11 AND 15.

PRESIDENT.—The first clause we have to deal with this afternoon is clause 11. Mr. Srinivasiengar has given notice of an amendment in regard to sub-clause (1) of this clause. He will please move it.

MR. C. SRINIVASIENGAR.—Sir, clause 11 deals with suits for village offices and for the recovery of emoluments connected therewith. It is followed by two provisos, the first being that no suit shall be entertained for a mere declaratory decree, and the next one being, as I understand it, that when the emoluments are in the shape of land, suits concerning such land are triable by the Civil Court and not by the revenue authorities. This being a distinct departure from long established practice evoked considerable discussion at the last meeting of this Council. The circumstances of the case are somewhat peculiar. Service lands, at any rate those belonging to the offices of patel and shanbhog, have been assessed fully, and in some cases more than fully, if I am not mistaken, and yet such lands have not been enfranchised, and they retain their original character with the disabilities consequent thereon, such as inalienability, indivisibility, etc. The question is thus one of no ordinary difficulty and was discussed from various standpoints on the last occasion; but a final decision of it was postponed in view to a further consideration of the point. I have since given the matter my best attention, and in the result I have framed an amendment which I have, with the permission of the President, now the honor of moving at this meeting.

My proposal is that proviso (ii) be deleted and that the following be inserted in its place:

"Where the emoluments of an office consist wholly or in part of land, and where such land has, from whatsoever cause, passed into the hands of some person other than the holder of the office, the claimant, whether holder of the office or not and under whatsoever title claiming, shall, without prejudice to the operation of the rules made under Section 23 of this Regulation, be entitled to recover the land where there has been a wrongful dispossession or wrongful withholding of possession within 12 years next preceding the institution of the suit. In no other case shall a suit for the recovery of such land be entitled to succeed."

Service land, as the name denotes, is land attached to the office, and as such, strictly speaking, ought to be enjoyed by the person in possession of the office. But under circumstances too well-known to need special mention here, there have been cases in which offices have in olden times changed hands and so also the lands connected therewith. Alienations by sale, mortgage, gift, etc., have to some extent been made, and divisions perhaps to a larger extent. This state of affairs received a check on the introduction of the Potgi Rules and the Revenue Rules both of which, I believe, expressly declare that such lands are neither transferable nor divisible. The divorce that previously existed between the office and the land appertaining thereto thus practically ceased to exist on the introduction of these rules. At any rate, if there have been any cases of violation of these rules, they could not be many. We have thus to deal with lands transferred before the introduction of these rules which may be a fairly large number, lands similarly dealt with since the coming into force of these rules which are not likely to be many, and prospective transfers which may be expected to be practically *nil*, since alienation has been expressly prohibited by Section 5 of the Regulation which we are now engaged in considering.

My remarks though chiefly directed to pateli and shanbhogi inams, may be taken to have a wide application and to extend also to lands attached to inferior service such as those of toti, talari and nirganti. Perhaps, under the latter category there have been a larger number of transfers than under the former. The Select Committee have wisely provided for the framing of rules to give effect to the prohibition contained in Section 5. So far, so good. The rules contemplated may be expected to be conceived in a liberal spirit and to be sufficiently elastic not only to check flagrant abuses, but also to meet cases of real hardship. Every alienation, every division, I do not apprehend, will be necessarily set aside as the inevitable result of those rules; and I am sure that due allowance will be made for the circumstances of each case.

If alienations and divisions are not legally permissible, no plaintiff can found his claim on the strength thereof; likewise, no defendant can set up either alienation or division as a defence to a claim against him. These are matters which have to be decided not by litigation but by decision of Government under the rules I have already alluded to. There remains a small class of cases for which provision, in my opinion, has now to be made in the body of the Regulation. These are cases of wrongful dispossession of property and cases of wrongful withholding of possession from a party who is entitled to possession. These, if made the foundation of a suit, ought, I think, to be adjudicated upon judicially. The question whether such adjudication is to be by Civil or Revenue Courts has to be considered. Here I must be excused for anticipating, because I find an amendment is going to be proposed, I presume on behalf of Government, by Mr. T. Ananda Rao, which limits suits to the hakdar's family. I beg to point out that there will be a much larger number of persons interested in such litigation; for instance, a suit may be by an officiator against a hakdar or stranger, by a hakdar against another hakdar or against an officiator, by a stranger against an officiator, or by one or more hakdars against a stranger. That is to say, the law declares that service lands cannot be alienated or divided, and therefore taking advantage of this, any person of any one of these classes may deprive any person peaceably in possession of the lands and take shelter under the provision regarding inalienability or non-partition. Suppose a stranger or a relation of the original holder is now in possession and has been so for the past twenty years. Any man whether hakdar, stranger or officiator, may by his influence take away the land from him by force, and if the Court, whether Civil or Revenue, were to confine itself to a decision of the claims only among hakdars, the man deprived of possession so long held by him will be absolutely without a remedy. If he goes to the Civil Court, his claim in respect of service lands cannot be maintained there in the absence of a legal provision authorising its entertainment. In this Regulation, it is proposed to throw the doors of the Court open only to hakdars. How then, can persons who do not come under this class obtain possession of the land or any redress? These are cases which have to be provided for now, and in fact, if I am not mistaken, although all the cases which I have hypothetically put may not arise, some cases have arisen and others may arise, and I see no reason why we should not deal comprehensively with the question and say whatever may be the title and whoever the person may be, if he is in possession and if such possession is wrongfully disturbed, or if a man is entitled to possession and is refused possession, he can obtain relief by resort to the Revenue Court under this Regulation; so, the Government amendment, which is circumscribed in its operation, has to be enlarged; not only should it be enlarged, but in accordance with long existing practice, which I see no sufficient reason for now disturbing, such suits must be made cognisable by Revenue Courts. The idea of vesting Civil Courts with this jurisdiction is in the first place opposed to the spirit of the Land Revenue Code. Of course, the words "against Government" which have been used in Section 221(*a*) of that Code have in the past given a great deal of trouble to those who have had to deal with that section. I do not think that either the insertion or the omission of those words was designedly made. At any rate, Government have always held that all claims of the kind mentioned in Section 221 are cognisable exclusively by revenue authorities and that such cases cannot be taken cognisance of by a Civil Court. I speak subject to correction (and my lawyer friends will here tell me if I am wrong), then I say that our Civil Courts too have held that such cases are not cognisable by them.

Then again, as I said, if there has been a direct violation of the rule, and on the strength of any alienation or partition any man comes to a Court, Revenue or Civil, and asks for a decree, he must be non-suited of course; when possession actually held is threatened for the first time, he ought to be given relief. In such cases, my opinion is that Civil Courts ought not for the first time now to be given this jurisdiction. There is no call for it; there has been no complaint in the past, and what apparently is for the benefit of the parties concerned is not really so on account of the inconvenience, delay and cost attending such litigation. I do not mean any disparagement to Civil Courts. But as a matter of fact, such cases can be more expeditiously and at less cost disposed of by revenue authorities than by Civil Courts. I have exercised my mind over every possible case in which relief may reasonably be required in respect of official land, and it seems to me, barring

invalid alienation, these are the only cases which require relief; and even here, Government will naturally deal leniently and liberally with people who have long held possession and whose possession has been judicially upheld. Under the circumstances, the two amendments, the one I have now put before the Council, and the other to follow, clash with each other and, as I said, the latter amendment is not likely to comprise all cases which may have to be dealt with. Then again, there is the question of limitation. Under the ordinary law of limitation, when there is land involved and when possession of it is sought to be recovered, the time allowed is 12 years. I do not see why the same time should not apply to cases of land under this Regulation and why there should be any curtailment at all. In the amendment that is to come, I do not see any mention made of the time, but I believe that the period meant is three years. But considering that it is land that forms the subject of litigation, it is much too short in my opinion. Then again, if it is conceded, as I believe it will be, that all alienations and partitions opposed to the terms of the Regulation cannot be dealt with in the Regulation itself, but must form the subject matter of rules, is the Civil Court decree to be made contingent upon rules to be framed? Of course, I may be told, my argument will apply also to revenue authorities; but I submit that the cases are not precisely similar. In my amendment which allows the entertainment of a suit, there is a distinct provision that "subject to the operation of the rules," that is to say, subject to Government exercising the right to assess, resume or deal in such other manner as they think fit, the aggrieved party may come to the Revenue Court, file a suit and obtain a decree. There is a reservation proposed to be made of a kind inappropriate to a suit in a Civil Court. Again, it does not appear whether Civil and Revenue Courts are to have concurrent jurisdiction under Mr. Ananda Rao's amendment. As I read it, it means that a party who has a grievance may go to the Civil Court. That means, if he chooses he can ask the revenue authorities for relief or he can go to a Civil Court, the option resting with him and not with the revenue authorities, because the jurisdiction of Revenue Courts in such matters is not expressly taken away. On the contrary, there is a general provision that suits regarding offices can be dealt with in Revenue Courts. Later on comes another provision debarring Civil Courts from entertaining suits except those connected with land. If it is intended that both Courts are to exercise jurisdiction, more mischief than good will come out of it. Under all these circumstances, and chiefly on the ground that practice has always been opposed to Civil Courts entertaining such cases,—parties not wishing for a change and not complaining of the existing state of things, and Revenue Courts being in a position to deal with such cases more promptly and at less cost,—I appeal to Government to kindly reconsider their position and not press their amendment in opposition to mine.

Mr. Syed Amir Hassan.—I beg to second the amendment.

Mr. T. Ananda Rao.- Sir, with your permission I propose submitting to the Council a few introductory remarks before I proceed to deal with the amendments which stand in my name. I find that there are misconceptions regarding the principle of the bill even in quarters where they may be least expected. The subject is a complicated one, and I have no doubt that predilections and opinions of individual officers of Government, and even orders sometimes issued in the name of Government, have contributed to the confusion that prevails in the minds of even officials, both as regards the nature of the Potgi or remuneration fixed for the patel and shanbhog, and as to the character of the service inam lands attached to these two offices, and the limitations under which the right with regard to them is to be exercised

Some patient research into the past history of the question and dispassionate consideration of the different opinions expressed by different authorities are necessary before a clear idea can be formed of the real nature of the points involved. The issues will be only obscured and the subject further complicated, if we import into the controversy considerations purely of a sentimental character. The attempt made in some newspapers to show that some among us are in favor of maintaining the hereditary principle and that some others are altogether against it, will not advance the correct solution of the questions that arise in the course of the progress of this bill through the Council. In fact there has been no such antagonism as is proposed to be set up. Now as ever before, since the days of the British Commission,

the endeavour has been to maintain and preserve the hereditary character of these offices and the lands attached to them. A few years after the Rendition, the Government of His Highness the Maharaja even went to the extent of attempting to do away with remuneration in cash for the offices of patel and shanbhog, and substituting assignment of land in its place. This was found to be impracticable and was abandoned. Later on, proposals were made for enfranchising the lands attached to the service of patel and shanbhog, and thereby removing apparent anomalies and uncertainties as regards the nature of the tenure of these lands. But these proposals also were abandoned as they were found to be detrimental to maintaining the hereditary character of the service lands. In the amendments which I am about to propose, the Council will find that every endeavour has been made to emphasize the hereditary character of the service inam lands attached to the office of patel and shanbhog, and to retain the lands in the possession of the hereditary families. Far from subverting the hereditary principle, the amendments are calculated to emphasize and reaffirm it. This is especially so in regard to proviso ii to sub-clause (1) of clause 11 as it stood in the original bill, and also clause 15 which would, if retained, work to the detriment of the hereditary principle. I hope when you have duly considered the amendments you will find that the alleged antagonism in respect of the maintenance of the hereditary character of these village offices has no foundation in fact.

With these preliminary remarks, I shall proceed to deal with the several clauses seriatim.

My proposals with regard to clause 11 are two-fold. In the first place, I wish to ask the Council to amend the clause as it stands. This is amendment No. 1 in the list which stands in my name. In the second place, I wish to propose to the Council to insert a new clause which I call 11 A for the present. This comes later on in the list. I will now dwell only on the former. Of that amendment the omission of the proviso No. ii is the main part. The rest is only consequential.

This proviso No. ii is a reproduction of the corresponding provision in Section 13 of the Madras Hereditary Village Offices Act iii of 1895 and is unsuited to Mysore. In Madras, all Village Service lands (*Maniam* or Inam lands as they are called in the vernacular) have been enfranchised. In Mysore, they have not been enfranchised, and the general sentiment is against such enfranchisement. And I may add that attempts made in that behalf once or twice in the past were ultimately abandoned.

Under the system of regulating the remuneration of village servants in Mysore, a question of the kind referred to in the proviso (ii) under notice cannot arise. In the case of the minor village servants—toti, talari and nirganti, the land goes with the office to which are also attached the perquisites in kind payable by raiyats and others under the designation of *Aya* or *Miras*. Revenue Officers deal with disputes relating to these lands and to these perquisites. Civil Courts have now no jurisdiction over them. They have not exercised jurisdiction, and it is not the wish or intention of Government to confer such jurisdiction.

Nor can a question of the kind referred to arise as regards the higher offices of shanbhog and patel. The reason is that the *Maniam* lands connected with those offices form no part of the remuneration of the officiator. This may sound somewhat of a paradox to some of my hearers, but a study of the rules relating to the remuneration of patels and shanbhogs, commonly called the Potgi Rules, will enable gentlemen to understand the exact position. Neither am I the expert nor is this the occasion to explain those rules in full detail, particularly as they are rules the greater part of which are worked by the Revenue Settlement Department and not by the Revenue Executive, who concern themselves only with the results. But, I may here submit a few remarks which may facilitate the understanding of those rules and their main features.

The Potgi Rules were first issued under Notification dated 27th October 1874. They were altered by Notification dated 31st August 1900. These alterations necessitated a re-numbering of the rules. Thus re-numbered, the rules were issued under Notification dated 2nd June 1903. The Revenue Manual now in force was issued in 1901. The Potgi Rules there printed are thus, so far as their numbering goes, not in accord with the rules as they stand at present. Now, the key, if I may so call it, of the Potgi Settlement is contained in Rule which is No. XXVIII in the Revenue Manual and No. XXVI in the orders now current. Unfortunately for those who have to study the subject afresh or to refresh their memory of studies in former

days, there is a small but serious error in the rule as printed in the Revenue Manual and in the Notifications both of 1874 and 1903, and this error has been the cause of much misunderstanding. As they stand, the opening words are "the official land under the settlement prescribed in the foregoing Rule." The word 'Rule' is printed in the singular number. It ought to have been in the plural number. Taken in the singular, the meaning would be that it is only the *maniam* land the relinquishment of which has been accepted under the preceding rule, that would form no part of the officiator's remuneration. Taken in the plural number, the meaning would be that the entire group of *maniam* lands dealt with under the entire Potgi Rules would cease to form any part of the officiator's remuneration, directly upon the remuneration being fixed and becoming payable under the Potgi Rules. It is in the plural number that the word occurs in the original set as recommended by Col. Anderson in 1866, and taken in this sense, gentlemen will obtain the key to the position.

The entire group of official lands forms no part of the officiator's remuneration. The amount of his remuneration is fixed according to the scale prescribed in the Potgi Rules. So fixed, it holds good for a term which is now fixed at ten years at a time, after which it may be revised. It is paid in cash from the Treasury or by book adjustment if the officiator has any land revenue of his own to pay. Gentlemen would here ask, what becomes then of the official land? The answer is that its tenure is settled under certain Settlement Rules which also find a place in the Potgi Rules. This settlement is revised once in 30 years along with the revision of the general land revenue settlement of the taluk. The broad features of this settlement are that the lands are left in the possession of the members of the hereditary family who hold them at the time of the settlement. Any alienation of them having been prohibited so far back as in 1835, their possession by strangers is illegal, and the lands are liable to be resumed from such strangers. But when they are held by one or more members of the hakdar's family, possession is not disturbed. The tenure of these lands in the hands of such members is a limited tenure, limited in the sense that the profits arising from these lands up to a limit not exceeding their survey valuation are liable to be taxed by the Sirkar at revision settlements. The proceeds of the tax which, under current or future settlements, the Sirkar levies on these service inam lands, constitute in the accounts of the State some set-off against the expenditure incurred on account of the remuneration of patels and shanbhogs. The settlement of these *maniam* lands is thus distinct from the calculation and payment of the remuneration according to scale, and it is thus that the official land forms no part of the remuneration of the officiator.

In these broad features of the Potgi Rules, gentlemen will find a fair way of giving effect on the one hand to a desire that the families of patels and shanbhogs should enjoy all the prestige which attaches to land endowments, and on the other to the security of tenure which is essential for the better cultivation of these lands and their improvement by the expenditure of capital on them.

In these circumstances, proviso (ii) in clause 11 has to be expunged and this is my proposal.

MR. K. P. PUTTANNA CHETTY.—I beg to second Mr. Ananda Rao's amendment.

MR. S. NARAYANA RAO.—Sir, I beg to propose that the amendment to clause 15, which Mr. Ananda Rao intends moving, be considered with the amendment moved by Mr. Srinivasiengar. The two amendments cannot be separated from each other. They form opposite sides of the same question. Mr. Ananda Rao's proposals to omit proviso (ii) altogether and as a corollary to that, to adopt the amendment to clause 15, may be taken together.

PRESIDENT.—Yes; we had better do so.

MR. T. ANANDA RAO.—Sir, the next proposal standing in my name is to make certain amendments in clause 15. If these amendments be adopted, the clause would read as follows:—

> "15. No Civil Court shall exercise jurisdiction in respect of any claim to succeed to, or to the possession of, any village office, or the emoluments thereof, or any question as to the rate or amount of such emoluments. But when the claim is as between different members of a hakdar's family of patel or shanbhog in respect of land entered in the Government records

or otherwise shown as service inam land connected with the office of patel or shanbhog, such claim may be entertained and adjudicated upon by a Civil Court."

The remarks which I have already addressed to the Council in regard to the Potgi Rules will have prepared the way of Hon'ble Members to my present proposal. Although the restrictions which we have already adopted in clause 5 against alienations and transfers of all sorts, are restrictions which have always existed, yet, as a result of the vicissitudes of time and circumstances attending the devolution of the offices of shanbhog and patel, we find official land wholly or partly in the hands of members of the hereditary family other than the actual worker, and this often-times with the cognizance and sufference of constituted authority. While on the one hand these are not essential for the remuneration of the officiator as already explained, vested interests have on the other hand grown and disputes regarding them arise, which a Civil Court, far better than a Revenue Court, is comptent to deal with. The idea of the superior competency of a Civil Court to deal with them is what prompted the proviso (ii) to clause 11 of the original draft of this Regulation. My proposal aims at giving effect to this idea consistently with the principles of the Potgi Rules already explained. I move that it be adopted.

MR. C. SRINIVASIENGAR.—I beg to be informed whether jurisdiction will be concurrent.

MR. T. ANANDA RAO.—Well, we say "Civil Courts *may* take cognisance." "May" there would mean "shall", as we have already been told. No doubt it is possible to retain all the various cases instanced by Mr. Srinivasiengar in the jurisdiction of the revenue Courts, but popular sentiment will be against it. But when Government does not require the land to fix the remuneration of the officiator, it is well that the case goes to the Civil Court. That is the idea underlying my proposal.

MR. K. P. PUTTANNA CHETTY.—I beg to support both the proposals of Mr. Ananda Rao.

MR. NAGAPPA.—I beg to support Mr. Ananda Rao's amendment. The amendment proposed aims at keeping the lands assigned as remuneration of a village officer in the hakdar's family. These lands were originally granted as service inam lands. These are inalienable without the sanction of Government and are not liable to process of any Civil Court (*vide* Potgi Rule XXXIV, p. 57 of the Revenue Manual).

Government were enabled to secure the services of village officers at a comparatively small remuneration by throwing open to them the prospect of getting valuable lands in the village, assigned as remuneration to them and their family. This policy of Government seems to me to be a laudable one, for it had two-fold advantages. It secured the best lands in the village for the village officer, who by proper cultivation of such lands became a respectable raiyat and thus commanded influence among the villagers and secured their confidence. It also benefited the Government as it secured his services without adequately remunerating him. This system was tried with great success. It would not be expedient or desirable to do away with the present practice by allowing such lands to be alienated to strangers and thus deprive permanently the hakdar's family of the enjoyment thereof.

The wording as it stands seems to my mind to be restricted in its operation. Suppose for instance, the claim is between one member of the family of a hakdar and a stranger; this section will not then apply. Therefore, I would ask the mover of the amendment to add the words "or between members of the family and a stranger." I do not think it is the intention of the Government to leave the land in the hands of the stranger. I think it is their intention to take it back and keep it in the hakdar's family. So, when the claim is between a member of a hakdar's family and a stranger, Civil Courts must have jurisdiction to entertain such suits. The addition of the words I have proposed would cover all the cases instanced by Mr. Srinivasiengar. With these remarks, I beg to support the amendment.

PRESIDENT.—I do not think that the case of wrongful dispossession by a stranger arises at all. Such cases will be dealt with by the rules in which we propose to lay down that service inam lands shall not pass into the hands of strangers. When the dispossession is by a member of the hakdar's family itself, such cases will be dealt with as in the amendment proposed by the First Councillor. If a stranger

is in possession, the revenue authorities will step in and recover the land and restore it to the family or otherwise deal with it.

MR. C. SRINIVASIENGAR. What will be done if the officiator takes away the land from the hakdar?

PRESIDENT.—His case will come under the amendment proposed by the First Councillor.

MR. SRINIVASIENGAR. What is to happen in the case of *bonâ fide* disposition, such as Stridhanam?

PRESIDENT. Clause 23 provides for the making of rules as regards the action to be taken in respect of any unauthorised alienation of the emoluments of a village office. The power to make rules in this respect was inserted for the first time by the Select Committee. In making the rules we can, I think, provide for the action to be taken in cases where the land which is associated with the service of patel or shanbhog has been alienated and is found in the hands of strangers. Will not the power given there suffice for these cases?

MR. C. SRINIVASIENGAR. But as between the parties, what is the remedy?

PRESIDENT. As against a stranger, Government steps in and restores the land to the family, and when the claim is between the members of the family, clause 15 amended as proposed by the First Councillor will apply.

MR. C. SRINIVASIENGAR. What is to happen when the land has been for generations past in the hands of a distant relation who has been enjoying it?

PRESIDENT. Government will decide whether they will interest themselves in the dispute.

MR. C. SRINIVASIENGAR. Any man who has a little influence in the village can go and take forcible possession and there is no remedy for the man thus dispossessed.

PRESIDENT. If Government think it worth their while to preserve the land as inam, the rules to be framed under sub-clause (4) of clause 23 will enable them to act.

MR. C. SRINIVASIENGAR. My contention is that there should be some provision for dealing with the man who for the first time now takes away possession of the land from another man.

PRESIDENT. If it is a service land and a stranger has dispossessed the man in possession, he can appeal to Government, and Government will take it from the stranger under the rules to be framed under section 23, and restore it to the hakdar's family.

MR. A. RANGASWAMI IYENGAR. In answer to Mr. Srinivasiengar, I would say that, so far as Inam lands are concerned, there can be no case in which Government is not interested. It may appear to be a dispute between two parties so far as the land itself is concerned, but Government is also interested in a way as it is service inam land. If the President will permit me, I should like to refer to all the amendments proposed and to make a statement of the law as I understand it.

Before the Potgi Rules of 1874 were framed, shanbhogs, patels and other village servants had *maniam* lands for a portion of their remuneration, and they used to receive *aya* or *miras* in addition. Even in those days, there had been alienations by parties of such *maniam* lands, and from time to time, Government used to prohibit such alienations and insist upon the alienations being cancelled and the *maniam* land restored to its original character. But in course of time, in certain cases of vested interests and long possession after alienation, Government condoned such alienation and removed the land from the category of *maniam* lands. The hardship brought to notice by Mr. Srinivasiengar, if the rule about the inalienability of *maniam* lands be enforced in such cases, will of course be recognised by Government as pointed out by the President, and the alienation may be condoned so to speak.

As regards the Potgi Rules, the learned First Councillor referred to them in their two-fold character; he said that in the case of patels and shanbhogs, the Potgi Rules did not at all recognise the possession of *maniam* lands as any part of their remuneration and that the provision as regards the inalienability of such lands should be treated as a distinct matter altogether. But I am not in favor of looking at the question in that view. The rules are somewhat inconsistent in this respect and

have to be construed in such a way as to reconcile the several provisions as far as possible. My own idea is that when the rules were framed, the fixing of the potgi was referred to only in so far as it was necessary to ascertain the amount that was payable to the shanbhog and patel as remuneration for the work done. Formerly, as I have said, shanbhogs and patels were remunerated partly by *aya* and partly by lands. The payment of *aya* was done away with and it was included in the land tax payable by the people, and in order to calculate the amount to be so included, the total remuneration which patels and shanbhogs were to receive was fixed at 3 or 4 per cent on the land revenue collections. The amount represented by the value of the *maniam* lands was allowed for. This, I think, would be a more consistent way of looking at the Potgi Rules. I would therefore say that although the remuneration of patels and shanbhogs was computed in cash, the scope and the real policy of the Potgi Rules was to recognise *maniam* lands also as part of the remuneration and to allow for the enjoyment of such lands by their survey valuation or the difference between the survey valuation and what they call jodi. So it seems to me that it would not be right to say that so far as patels and shanbhogs are concerned, the Potgi Rules did not recognise the possession of *maniam* lands as part of their remuneration. The provisions of the present bill would otherwise be somewhat inconsistent, because it recognises that shanbhogs and patels are in receipt of emoluments which are not paid in cash.

Now I come to clause 5. In this it is provided that the emoluments of village offices shall not be liable to be aleinated or encumbered. Perhaps when this clause was passed, its full force was not recognised by the Council; for, if they had carried it to its legitimate extent, they would have found that every alienation of *maniam* land would be invalid, unless some provision was made by Government under the rules for which authority is taken under section 23; but even then, the rules can only be to give effect to the provisions of section 5, and they cannot be made to over-ride the express policy of the section itself. Therefore it is a question whether even Government can, as it was hitherto doing, condone cases of hardship in matters of alienation of *maniam* lands. I would therefore go back and suggest to the Council whether the absolute terms of Section 5 may not be slightly modified.

I next go to the competing amendments of proviso (ii) to clause 11, sub-clause (1). As was explained by the learned First Councillor, the proviso was borrowed from the Madras Act where *maniam* lands have been enfranchised and are not taken into consideration as emoluments of the office. It must be also remembered that there is a distinction in matters of procedure between Madras and Mysore. In the case of such lands, Civil Courts were given jurisdiction in the Madras Presidency, whereas in Mysore the policy has been to oust the jurisdiction of Civil Courts as regards service inam lands. The latest decision of the Mysore Chief Court that I could lay my hand upon was in a case which was decided in second appeal in 1904, when I happened to be one of the Judges who sat with Mr. Justice Ramachendra Iyer. In that case, a jodidar had brought a suit to recover a land from a shanbhog on the ground that it belonged to him and that the shanbhog had falsely represented that it was his service Inam. It was held by the Chief Court that although Government was not implicated, Government was interested in the *maniam* land being preserved intact; that although the dispute between the two parties was as to the identity of the *maniam* land itself, even that question was one in which Government was interested; and that therefore clause (*a*) of Section 221 of the Land Revenue Code applied and the suit was not cognizable by a Civil Court. I do not think this case has been overruled, although indirectly in another case, it was held somewhat differently. That was decided in September 1905 by a Bench consisting of Mr. Justice Staley and Mr. Justice Nanjundiah. In that case, the final decision did not rest upon the question whether the suit was cognizable by a Civil Court. Even on the merits, it was considered that the man had failed to prove that he was entitled to the land and in the course of the judgment it was held that section 221 (*a*) applies only to suits against Government. That was the point referred to by Mr. Srinivasiengar as having created much trouble. So there is some difference of opinion in the decisions of the Chief Court itself. The policy has been not to recognise the jurisdiction of Civil Courts in such cases, and the balance of opinion would on the whole I think rest with the theory that it is better to continue the existing state of things, that is to say, to hold that Revenue Courts shall have jurisdiction in all cases connected with *maniam* lands, whoever may be in possession thereof, whether one of the members of the hereditary family or a stranger.

If in any case Government thinks that it would cause hardship if the alienation were set aside, it may allow the alienation to slide over and take no notice of it. If it thinks that the alienated *maniam* land is an important one and should continue in the family and that it is undesirable to separate the *maniam* from the office, then of course it may cancel the alienation or insist upon its being cancelled. If these principles are conceded, then I think there will be no occasion for the amendment which stands against the name of Mr. Srinivasiengar. There is no necessity for any provision being made for the recovery of such lands, because Government will have power to deal with them under Section 23. I would therefore vote for the amendment proposed by Mr. Ananda Rao.

With regard to the other amendment moved by Mr. Ananda Rao in respect of clause 15, for the reasons already given, it seems to me that with the omission of proviso (ii) to sub-clause (1) of clause 11, a reference to that proviso in clause 15 may be omitted, and that it would be sufficient to say that no Civil Court shall exercise jurisdiction in respect of suits falling under clause 11. Nothing else would be required and the proviso about suits between different members of a hakdar's family would be superflous.

MR. V. N. NARASIMMIYENGAR.—In connection with the proviso (ii) to sub-clause (1) of clause 11, I had some tussle in the Select Committee with my friend the Revenue Commissioner. I wanted to change the phraseology and make the proviso more clear and understandable. I am not aware of any case in which it would be applicable in Mysore. It has been imported from Madras or Bombay. I am very much in favor of scoring it out altogether. It is very necessary to bear in mind that this Regulation applies to patels and shanbhogs and other village officers also, but the Potgi Rules refer to patels and shanbhogs only. Mr. Ananda Rao, in his amendment to clause 15, refers to patels and shanbhogs only, but we are now legislating for nirgantis, totis and talaris also. Hitherto it has been an invariable rule for Revenue Courts to entertain suits for village offices and to adjudicate upon them, the jurisdiction of Civil Courts being excluded altogether. If a dispute arises regarding a service land, Government is, of course, impliedly implicated. The tenure of the land and the service character of it have always been upheld. In that way the interference of Government would be reasonable and understandable. Revenue Courts would be competent—they have been hitherto competent,—to adjudicate upon such cases. The same officers with the same qualifications and tests man both the Revenue and Civil Courts up to the point of bifurcation, and no objection can be taken on the score of their general fitness. I would therefore altogether exclude from the jurisdiction of Civil Courts all cases regarding claims to village offices of all kinds and invest the jurisdiction over them entirely in Revenue Courts. The question was attempted to be solved in the sixties in Mr. Bowring's time. I had something to do with the matter then. As far back as 1868 or 1869, five taluks in the Chitaldrug District were settled by me and registers were prepared and it was intended to enfranchise the service lands of totis, talaries and nirganties in those taluks and assign new lands instead. In the Hiriyur Taluk, where land is poor, I had to assign 500 acres now and then in order to work up to an annual income of only Rs. 24. Assessment is sometimes so low as ½ anna per acre. The idea, however, was not carried out; only registers were prepared for all the five taluks. It is not quite right therefore to say that only good lands remained in the hands of village officers. The reverse was the case sometimes. These lands cannot be changed. The old holdings included also bad lands which could not be cultivated. I know very well that in some taluks, totis and talaris could not cultivate the service lands and so depended upon the cooked food and miras paid by the raiyats. (There has been some correspondence by the Secretary regarding this). My contention is that it is safer, better and easier to vest the jurisdiction entirely in Revenue Courts for the adjudication of all cases affecting village service inam lands.

MR. S. NARAYANA RAO. After what has been said by the various speakers on the subject, I hesitate to say anything positively, as I have not had much to do with inam lands, but I cannot help giving expression to my thoughts in connection with this subject. As I understand the nature of these lands, it seems to me that service lands held by shanbhogs and patels are still service inams though they are not considered as part of their remuneration. It is still to some extent service inam land, the holder of the office getting the potgi determined on the revenue or jamabandi of the village in which he renders service. And though this land does not form part of the remuneration, yet it is still considered as land attached to the

service and not separated from it. To this extent it should be considered as service inam land, *viz.*, that it should remain in the possession of the family and should not go out of the family, and if necessity arises, the land might be fully assessed and the assessment taken for recoupment to Government for the potgi Government have to pay to the service holder. In this view, that it still forms part, in a certain sense, although not in every sense of the term, of the remuneration of the office holder, the questions which naturally arise are, how far the claims connected with members of the family should be left to be adjudicated by Civil Courts ; and whether all claims and disputes that may arise with reference to these lands should not lie entirely in the hands of the Revenue Officers. The question involved is one of convenience, that is, whether it would be convenient for Revenue Courts to dispose of all such claims or not. If they can conveniently dispose of them, it seems to me that Revenue Officers are the proper persons to decide them. But if they cannot conveniently devote so much time and attention and bring to bear on the questions at issue the learning and research that would be devoted by Civil Courts, and if it is necessary that these questions should be settled with judicial precision, then jurisdiction might be given to Civil Courts. In considering this aspect of the question, we have to remember that Revenue Officers are burdened with various duties. Questions that may arise with reference to these lands are questions of inheritance and partition—mostly questions between parties themselves. Then another class of disputes that may arise is between (hakdars) persons who hold a right to the office and strangers. Questions that arise between strangers and hakdars will be simple questions of lease and other contracts that may have been entered into in reference to the cultivation of the land and so forth. I do not think that a suit between shanbhogi landlord and tenant with reference to inam lands is taken away from the jurisdiction of Civil Courts. It is a question in which Government is not at all interested; it is a question which affects the possession of the land only for a year or two, at the most half a dozen years, under a lease. I am of opinion that under the existing law such a question is not taken away from the jurisdiction of a Civil Court. In suits between members of the family for division of the lands or division of the produce on the ground that they are all hakdars, the interests of Government are involved only to a small extent and the questions that may arise in such suits are more complicated than in the cases contemplated a little while ago. It seems therefore that suits regarding inheritance and partition may conveniently be referred to Civil Courts for adjudication. Alienations being prohibited by clause 5 of the present bill, any alienation to a stranger that takes place contrary to it will be illegal and Government may step in and resume the land summarily from the alienee and restore it to the office-holder. Other questions between members of the family may be safely delegated to Civil Courts. I therefore think that the amendment to clause 15 proposed by the First Councillor may be adopted and that proviso (ii) to sub-clause (1) of clause 11, may be omitted.

MR. K. P. PUTTANNA CHETTY.—With your permission, Sir, I would like to address a few words. I think there is a good deal of misapprehension in the minds of some of the learned members as to the exact meaning of the term "emoluments" as used in the bill under consideration. "Emoluments" means and includes "lands, etc., granted or continued in respect of or annexed to any village office by Government." The idea running in the minds of several of the Honourable Members seems to be that service inams of shanbhogs and patels form part of the "emoluments." It is a mistaken idea. I will read to the Council the exact rule that now obtains on the subject. This is Rule XXVIII of the Potgi Rules, which runs as follows:—

"The official land under the settlement prescribed in the foregoing rule will form no part of the remuneration of the officiator who is to be paid wholly in cash and the land will therefore remain in the possession of the sharer who may at present hold it."

If this cardinal principle is kept in mind, I think it will help us to understand exactly the drift of the provision contained in the present Bill. The service inam lands of patels and shanbhogs do not come under the term "emoluments of office," but those of toti, talari and nirganti do come, and it is to these that Section 5 applies. As regards lands assigned to shanbhogs and patels, they are governed by a different set of rules. Naturally these lands have been rendered inalienable; they are classed as service lands, but they are so only in name. A certain amount of jodi is put upon them which jodi is liable to be increased according to circumstances. This is done

by the Survey Department under a set of rules of which the Council is probably not aware. If this is borne in mind, we may well leave to Civil Courts jurisdiction over cases in which such lands form the subject matter of dispute. Whether the alienation be to a stranger, as pointed out by the President, or to other persons, Government will, if clause 5 applies to it, simply step in and resume possession of the service land and confirm it to the hakdar's family.

MR. C. SRINIVASIENGAR.- I am not very clear about the meaning of the word "emoluments."

PRESIDENT. If you will pardon my saying so, the mistake arises as pointed out by the Second Councillor in assuming that all the different kinds of emoluments enumerated in clause 4 are attached as remuneration to every village office. The whole mistake arises from that. Land, for instance, is no part of the emoluments of a patel or shanbhog, nor fees in money or agricultural produce. That has been declared in notifications of Government after the introduction of the survey settlement. Fees in money and agricultural produce have ceased to be part of the emoluments of patels and shanbhogs; but with regard to other village officers, I think that, more or less, all these various kinds of payment form part of the emoluments of the office.

MR. M. C. RANGIENGAR. If the lands do not form part of the emoluments in the case of patels and shanbhogs, why should the bill provide for disputes between hakdars being taken cognisance of by Civil Courts and reserve to Revenue Officers the right to determine disputes between hakdars and strangers? If the lands are not part of the emoluments, and pass out of the family, Government may impose full assessment. So the character of inalienability upon which a great deal has been said is determined.

PRESIDENT. You are perfectly right. As I have previously pointed out in connection with some other clauses of the bill, there is an anomaly in Mysore procedure. In Madras, when the remuneration was fixed in cash, all the inam lands of patels and shanbhogs were enfranchised and treated as any other kind of land and were allowed to be freely disposed of. In Mysore, they wanted to reconcile the hereditary principle with the efficient discharge of the duties of the pateli and shanbhogi offices and the result is that they have been inconsistent in regard to the tenure of these lands. When these lands were subjected to a jodi, they should have been enfranchised and made the private property of the holder. But they wanted to keep these lands inalienable, because a little privilege was attached to them in the way of being exempt from enhancement of assessment or any tampering with the jodi at a revision settlement. This left a little margin of profit on these lands; and that profit Government thought would be sufficient to invest them with importance. So they said that these lands which had been in the family for generations might continue in the family and not go out of it. But practically they are enfranchised lands and are on the same footing as private lands and it seems desirable to prevent the Revenue Courts from being flooded with suits for the possession of these lands as between members of a hakdar's family. The lands were declared inalienable from a desire on the part of Government to preserve their hereditary character. The Government were not quite logical, I must admit, in their practice and their principle. As remarked by the learned First Councillor in his speech, attempts were made in 1894 and 1895 by Government to carry the principle to its logical conclusion and to declare that the lands, when the additional jodi was put upon them, were the private property of the holders thereof. Again came the idea of preserving the lands to the family as, even when fully assessed, they possessed some value, partly from having been in the family for a long time, and partly because the jodi fixed, although equal to the assessment, would not be interfered with at a revision settlement. But there is no object in ruling that suits as between members of the same family should go to the Revenue Courts; because, in the first place, these Courts are not equally competent with Civil Courts to deal with such disputes, and in the second place, Revenue Courts will be flooded with suits which should properly go to Civil Courts. It is on that account that an exception has been made and a proviso added in the First Councillor's amendment.

MR. M. C. RANGIENGAR. -Has the officiator no connection with the land?

PRESIDENT. The officiator has no manner of connection with the land. If any authoritative pronouncement is required on the matter, I give it—if any authority

attaches to my opinion—that there is no manner of connection between the emoluments from land and the remuneration payable to the officiator.

MR. M. C. RANGIENGAR.—Clause 5 does not deal with the case of strangers.

MR. B. NAGAPPA.—We need not concern ourselves with strangers.

PRESIDENT.—No. Government will step in and take back the land.

MR. C. SRINIVASIENGAR.—Lands attached to pateli and shanbhogi offices are not emoluments!

PRESIDENT.—We do not say that. That will be settled in the rules.

MR. C. SRINIVASIENGAR.—Clause 5 does not deal with pateli and shanbhogi lands.

PRESIDENT.—It does.

MR. C. SRINIVASIENGAR.—If they are not emoluments of the office, they cannot come under clause 5.

PRESIDENT.—No such declaration has been made anywhere in the body of the bill.

MR. C. SRINIVASIENGAR.—This is intended for the information of the people and must be made clear. Patels and shanbhogs are directly interested in the question whether their service lands come under clause 5 or not. If they do not come under clause 5, the disqualification does not attach to them.

MR. RANGASWAMI IYENGAR.—As I said before, the Potgi Rules are somewhat inconsistent in respect of the question of emoluments. It will be better to give a consistent explanation and try to attach emoluments of land to the office rather than go upon the express wording of the Potgi Rules and say that there will be merely money remuneration. If this is not done, many shanbhogs will say that the emoluments are nothing more than what a common toti gets and that the office is worth nothing.

The original idea of attaching land to hereditary appointments was that the whole family was interested in the *hak* and was to enjoy the land. When the Government made an appointment to any office or appointed an individual to officiate for the time being, they found it hard to enforce the rule that the *maniam* land should go to the officiator alone. A violation of it was permitted on account of compassion or rather consideration for the interests of the other members of the family. I would, in the interest of making the village service important in the eyes of the people and in order to maintain its hereditary character, vote for and strongly urge the necessity of providing for *maniam* lands being inalienable, at least such of them as are now in the possession of the officiator. If it is found that the *maniam* lands do not command sufficient value or rather are not sufficiently valuable as remarked by Mr. Narasimmiyengar, the remedy ought to be the other way. Government should make up and provide other lands as *maniam* and restrict their enjoyment by making those lands the concrete emoluments of the officiator for the time being, so that the man in possession of the office may be in possession of a certain fixed quantity of immovable property so as to enhance his importance and secure his loyalty in the discharge of his duties.

PRESIDENT.—Mr. Srinivasiengar's idea is that land does not form part of the emoluments of an officiator patel or shanbhog.

MR. SRINIVASIENGAR.—Both the Councillors have now explained that it does not form part of the emoluments and so there can be no two opinions on the point. So we have either to modify the Potgi Rules by putting in suitable expressions in accordance with clause 5, or remove altogether from clause 5 the disabilities as to partition, etc.

PRESIDENT.—What we say is, "emoluments" includes "lands, etc., granted or continued in respect of or annexed to a village office by the Government," *i.e.*, the office has annexed to it lands which may be in the posssession of sharers of a hakdar's family.

MR. SRINIVASIENGAR.—Then, there is to be a difference between 'emoluments' and 'remuneration.'

PRESIDENT.—Yes. The lands are emoluments of the office; but there is a separate arrangement between Government and the office-holder. So far as remu-

neration is concerned, we give it in cash, but the lands continue attached to the office all the same. So they are an emolument of the office. They need not go to the officiator. Their profits go to the sharers in whose possession they may be.

MR. SRINIVASIENGAR.—In case Government are disposed to condone alienations, they cannot do so because such condonation is clearly against the terms of clause 5.

MR. S. NARAYANA RAO.—Am I to understand that the full assessment on service lands is not deducted from the Potgi?

PRESIDENT.—The assessment has nothing to do with Potgi.

MR. S. NARAYANA RAO. Then the lands are separately assessed and the Potgi is fixed under a separate rule and the one is not set off against the other!

PRESIDENT.—Quite so. That being the case, what is the modification you would suggest in respect of clause 5?

MR. C. SRINIVASIENGAR.—Even Government have not taken any serious notice of alienations. When rules are framed hereafter, Government can be as strict as possible in regard to future alienations. If Government were to tie their hands as proposed in clause 5, they cannot budge an inch afterwards. Some reference to the rules hereafter to be framed is necessary in the clause, because the rules cannot form part of the enactment unless reference is made to them in the body of the bill.

MR. ANANDA RAO.—Although I do not like to be extreme but always like to be between the extremes, I should say that logically the possession of service land should be of that person who renders the service. When there is only one hakdar and no other competent man is available in the family, then, either he must serve when the Deputy Commissioner calls on him to do so or he must resign the service inam land. That is the logical meaning which attaches to the tenure of service inam. The question of the enjoyment of the service inam is inseparable from the actual service itself. The sharers who enjoy the lands belonging to the hakdar's family ought to serve Government when there is a vacancy and when the Deputy Commissioner calls on them to serve. That is the logical conclusion. Otherwise what is the meaning of service inam? It is no doubt an extreme principle, but that is the meaning of service inam.

MR. A. RANGASWAMI IYENGAR.—I am not quite convinced from the discussions that have taken place that the whole Council or the majority are disposed to entirely cancel the idea that these hereditary offices should have *maniam* lands attached to them.

MR. C. SRINIVASIENGAR.—So far as I understand, the idea seems to be to retain and not to cancel the existing *maniam* lands attached to village offices. These lands form part of the emoluments of the offices.

PRESIDENT. I do not quite catch Mr. Rangaswami Iyengar's meaning.

MR. A. RANGASWAMI IYENGAR.—I mean that, so far as I understand, *maniam* lands are attached to hereditary offices. I went one step further and suggested that the *maniam* lands in the possession of the hakdar's family should be attached to the officiator for the time being. The mere fact that these *maniam* lands are attached to the office in the sense that some member of the family however remote should be in possession of them without reference to the performance of the duties of the office itself is not a sufficiently logical enforcement of the principle that *maniam* lands should be attached to the office. I suggest that the opinion of the Council be taken on the question that a portion of the *maniam* lands which are now attached to the office as emoluments should form the remuneration of the officiator for the time being; it should not be alienable and it should be invariably attached to the man for the time being officiating in the village office. We may leave alone whatever has already taken place. There is no practical benefit in going on subdividing and resubdividing the lands. What I say is, either we must wholly leave the lands out of account as contemplated in the potgi rules, or say that the officiator in the office should have a portion of the *maniam* lands. We do not know what portion it may be. In some cases it may be the entire portion, and in other cases it may be a portion scattered in different places. However, it will be in the interests of the hereditary service that the *maniam* lands should go with the officiator for the time being.

MR. C. SRINIVASIENGAR.—You say we need not take into consideration things

which have already taken place and that for the future suitable rules may be made by Government.

MR. A. RANGASWAMI IYENGAR.—The rules allow the lands to remain in the possession of a member of the family, however remote. Now suppose that the *maniam* lands are enjoyed by a family of hakdars which is not in possession of the office. In this case, how is the partition of the lands to be prevented or succession regulated among the members of that family?

MR. C. SRINIVASIENGAR.—They cannot partition the lands and, if they do so, Government will take such notice as may be required.

MR. RANGASWAMI IYENGAR.—Suppose the fourteenth cousin of the officiator is in possession of the *maniam* lands; when he dies, who is to be in possession of them? Are his sons to enjoy them?

PRESIDENT.—Of course, the sons enjoy them.

MR. RANGASWAMI IYENGAR.—How are they to enjoy them?

PRESIDENT.—As private property.

MR. RANGASWAMI IYENGAR.—Then, there will be no prohibition against alienation or enjoyment by others or partition.

MR. SRINIVASIENGAR.—The rules will lay down that in future *maniam* lands should not be divided or alienated.

MR. RANGASWAMI IYENGAR.—How are they to be enjoyed then?

MR. SRINIVASIENGAR.—All of them must enjoy the lands without partitioning them. The lands should remain intact.

MR. RANGASWAMI IYENGAR.—I only point out the difficulty. I think that clause 5 should be modified to a certain extent so far as alienations are concerned.

MR. NAGAPPA.—We may then say "subject to rules to be framed under Section 23, the emoluments encumbered

MR. RANGASWAMI IYENGAR.—We may insert the words "without permission of Government" after the word "whatsoever." Whether there is any use in reserving such a power, especially having regard to the policy as enunciated in this Council by the President, is quite a different matter.

MR. NARAYANA RAO.—An extreme instance which may not at all occur is this; suppose the present hakdar to a shanbhogi office does not hold the office, and all the other members of the family say that they don't want to hold the office. Will the family be permitted to retain the *maniam* lands? Suppose then Government appoint a third person to the office. Will the hakdar's family be dispossessed of the lands?

PRESIDENT.—The office has nothing to do with the lands. They have been practically enfranchised and made private property. It is from a desire to maintain the hereditary principle in regard to lands handed down from generation to generation that the lands are required to be retained in the family.

MR. NARAYANA RAO.—Is it then to be understood that the new comer is not entitled to the lands, and that there will be a complete divorce between the lands and the office?

PRESIDENT.—Yes.

MR. AMIR HASSAN.—I know of instances in which the *maniam* land is sold by Government for arrears of revenue.

PRESIDENT.—There has been much conflict in carrying out the principle. I think it is not possible to restrict the rights of sharers in the property by saying that it should be kept among themselves, and that it should not be partitioned among the members of the family in cases of succession, etc.

MR. ANANDA RAO.—Then what is the meaning of service inam?

MR. PUTTANNA CHETTY.—It is a fiction.

PRESIDENT.—We have already dealt with clause 5. If the Hon'ble Members agree, we will take up this clause after we have passed through the other clauses of the bill; and consider the suggestions made by Mr. Srinivasiengar (*viz.*, introducing in clause 5 a reference to the rules to be framed under clause 23) and by the Revenue Commissioner (*viz.*, about partition and alienation being allowed with the

permission of Government). The amendments proposed by the Senior Councillor in respect of clauses 11 and 15 appear to be suitable and to meet the requirements of the case. If the Hon'ble Members are prepared to adopt them, we will do so and proceed with the consideration of the next amendment.

MR. SRINIVASIENGAR.—That is, the omission of the proviso?

PRESIDENT.- Yes; and the understanding will be that there shall be no restriction as suggested by the Senior Councillor; that is to say, all civil rights will attach to the land, there may be partition, there may be succession, and there may be suits in regard to adoption, etc. The only thing that will not be allowed is alienation out of the family. In other words, all the incidents of regular enfranchisement will be attached to the land, but with the single limitation that it shall not be alienated out of the hakdar's family, present or past.

MR. M. C. RANGIENGAR. -I believe the property will remain in the family, and in that family it will be allowed to be alienated. It cannot be sold out of that family.

PRESIDENT. -Yes. This is not an enunciation of any new principle. No innovation is attempted at this stage. I am simply declaring the existing law on the point. If the Council agrees, we shall take up this amendment later on.

Mr. V. N. NARASIMMIYENGAR.- I think it refers to shanbhogs and patels and not to nirgantis, totis and talaris.

PRESIDENT.- -Yes. It cannot refer to nirgantis, totis and talaris. We leave the right to the land to be contested in a Civil Court; only we say that the suit is to be between the members of the family. There will be no preferential right of one branch over another branch. But the character of the tenure of the land is not changed. That character always attaches to it. With this condition attached, namely, that it shall not pass out of the hakdar's family, we leave disputes relating to it to be decided by a Civil Court. Only in the case of patels and shanbhogs the land does not form part of the remuneration, while in the case of nirgantis, totis and talaris, it does.

MR. NARASIMMIYENGAR.- We say that service inams in the families of patels and shanbhogs are not to be partitioned, etc., but we say that they do not form part of their remuneration. What, then, is the object of this kind of prohibition?

PRESIDENT.- If we legislate on the subject, we will be interfering with the settlements now in force.

MR. SYED AMIR HASSAN.—As I said before, such lands have been fully assessed and sold from hand to hand for arrears of revenue.

PRESIDENT.- -That is an administrative question which we may deal with separately and it is possible to declare that all these lands shall be treated as if they had been enfranchised. I will have selections from the records of Government published; especially now that the question has been so much agitated, it is well that the public should know the facts fully. This question had been taken up in 1894 and ultimately the Government said that they were not prepared to interfere with the existing practice.

MR. SRINIVASIENGAR.—There is a great deal to be said on both sides.

PRESIDENT.- -It will be curious for you to know that it was Col. Grant who said that the present arrangement should continue.

MR. NARAYANA RAO. -I remember that this question once came up before Mr. Chentsal Rao and Mr. Thumboo Chetty for decision. The question was, when the land did not form part of the remuneration of the shanbhog, why it should not be liable to be attached and sold in execution of a decree and whether an attachment of a certain *maniam* land by the Civil Court was not valid. I believe that Mr. Chentsal Rao was for declaring the validity of the attachment and sale, but Mr. Thumboo Chetty held the opposite view. Finally the Government seems to have supported Mr. Thumboo Chetty.

MR. SRINIVASIENGAR.—The Dewan (Sir K. Sheshadri Iyer) supported Mr. Thumboo Chetty. He held in concurrence with Mr. Thumboo Chetty that the land was not liable to be attached. The Government has been throughout consistent there.

By direction of the President, the Secretary read Col. Grant's letter referred to above.

MR. ANANDA RAO.—The upshot of all these discussions was the small modification made in 1900.

The amendment of Mr. Ananda Rao to omit proviso (ii) to sub-clause (1) of clause 11 was put to the Council and was carried unanimously.

PRESIDENT.—As regards what fell from the Revenue Commissioner, it is entirely a new idea and not a declaration, as far as I can see, of any existing principle regulating the remuneration of village officers, or concerning the character of the lands attached to the offices of patel and shanbhog. The idea that such of the lands as may happen to be in the possession of the existing officiator may be recognised as part of the remuneration of the office and made inalienable from the office is a new one altogether. It may be considered as an administrative question, but it has not much bearing upon the legislation with which we are now dealing, as this legislation only declares the existing law and practice and does not propose to make any changes in them. So, with this understanding that later on we will introduce modifications in clause 5 of the bill, the amendment proposed by the 1st Councillor as regards clause 15 may be considered by the Council.

The amendment having been put to the Council was carried, the votes being 8 *for* and 4 *against*.

The verbal alterations proposed by the 1st Councillor in clause 11, sub-clause (1), *viz.*, the substitution of the word "that" for "as follows" after the word "provided" and the omission of figure (i) were adopted unanimously.

PRESIDENT.—We will now consider the amendment proposed to be moved by Mr. Srinivasiengar in respect of clause 11, sub-clause (2), namely, that the words "or in the case of a minor for registry as successor" be inserted after the words "eligible for appointment."

MR. SRINIVASIENGAR.—I withdraw this amendment.

CLAUSE 11 A.

PRESIDENT.—The next amendment is that standing against Mr. Ananda Rao's name, namely, the addition of a new clause after clause 11.

MR. ANANDA RAO.—Sir, I beg to move that the following new clause be inserted in the bill. It is as follows:—

"On a complaint being preferred by a nirganti, toti or talari of non-payment of the *miras* payable under rules framed under Section 23 by any holder of land or other person from whom such contribution is due, the Amildar or the Deputy Amildar of the Taluk or Sub-Taluk shall hold a summary enquiry in the manner laid down in the Land Revenue Code, Regulation IV of 1888, and pass a decision thereon; provided that the complaint is made in the year in which such *miras* is due or in the year immediately following it."

I call it 11 A for the present to indicate its position and it can receive its proper number by and by. Without a provision of the kind which I propose, it will be necessary for the minor village servants, *viz.*, toti, talari and nirganti, to bring a regular suit in every case in which a raiyat withholds from them the *Aya* or *Miras* (as the perquisites in kind are called) due under standing orders and the custom of the country. A regular suit in such cases is equally cumbrous, expensive and unnecessary. A simple complaint, a summary enquiry and adjudication are all that are called for, and this is what the proposed clause provides for. It is very much in the terms of the existing rule and procedure as shown at page 60 of the Revenue Manual of 1901. As the perquisites would be of small value in each case, and the evidence relating to it is liable to deteriorate by time, a time limit is prescribed, so that the complaint should be made in the year in which the perquisite is due or in the year immediately following. The proposed clause is otherwise self-explanatory and I trust that it will commend itself to the Council.

MR. KANTHARAJ URS.—I beg to second this amendment.

MR. SRINIVASIENGAR.—If according to custom *miras* is due to them, then I think the amendment is all right. If the payment is due, then it can be enforced as provided in the amendment. The rules contemplated will provide for payment being made.

MR. RANGIENGAR.—Can a toti, talari or nirganti of an alienated village complain to the Amildar and recover the miras due? It will be a case between master and servant.

MR. ANANDA RAO.—That is exactly what is intended. But it won't be a suit between master and servant.

PRESIDENT.—As this point has been so prominently brought forward by Mr. Rangiengar, a note will be made of it and it will be considered at the time of framing the rules.

MR. RANGIENGAR.—Does Government contemplate fixing an institution fee on suits filed in Revenue Courts, and if so, is it to be an *ad valorem* fee?

MR. SRINIVASIENGAR.—The fee fixed for such suits is ten rupees.

MR. RANGIENGAR.—In some of the cases which I had to conduct, the Deputy Commissioner insisted upon payment of an *ad valorem* fee, where the office of shanbhog was in question.

PRESIDENT.—It is for the Revenue Commissioner to consider this question.

The amendment proposed by the First Councillor was put to the Council and was agreed to.

PRESIDENT.—The next amendment is that which relates to old clause 12 of which Mr. Nagappa has given notice.

MR. NAGAPPA.—Before taking up this amendment, there is another amendment which I withdrew last time with the permission of the Council to bring it forward when clause 11 was dealt with; I now ask that I may be permitted to move that amendment. It is as follows:—

"A certificate of heirship or a decree of a competent Civil Court shall until revoked or set aside be conclusive proof of the facts stated or determined in such certificate or decree."

MR. SRINIVASIENGAR.—I think this was considered when the question of adoption was brought forward.

MR. NAGAPPA.—There is a provision in the Land Revenue Code similar to the one I have proposed. I therefore move that an express provision may be made in this bill also.

MR. RANGIENGAR AND MR. RANGASWAMI IYENGAR.—The amendment will apply only to summary procedure. There is no summary procedure with regard to suits.

MR. NAGAPPA.—Then, I beg to withdraw this amendment.

The amendment proposed was accordingly allowed to be withdrawn.

The Council adjourned to the next day (24th March 1908).

TUESDAY, 24TH MARCH 1908.

The Council met at 3 P.M.

All present.

CLAUSE 5.

PRESIDENT.—Yesterday when we closed the proceedings, the idea was to take up clause 5 and make the necessary amendments in it. Mr. Srinivasiengar had kindly undertaken to draft them. I believe that all the members are in possession of copies of the three alternative proposals which he has suggested. Mr. Srinivasiengar will kindly explain them to the Council.

MR. C. SRINIVASIENGAR.—Sir, at yesterday's meeting of the Council, we had occasion to revert to clause 5 of the bill now before us, and it then appeared to the Council that in the absence of all reference in it to Government sanction as in the Potgi Rules and to rules under Section 23 as now contemplated, that clause would be somewhat defective and unsatisfactory. I was asked to draft an amendment on the lines of the discussion that took place here yesterday. I have accordingly prepared three alternative drafts which I will presently read to the Council.

The first alternative is:—

(1) "Insert either at the beginning of clause 5 or after the word 'whatsoever' in the 8th line of it the following words, *viz.*, 'without the sanction of Government and save as further provided by rules made under Section 23.'"

The clause with the proposed addition made would read thus :—

"Without the sanction of Government and save as further provided by rules made under Section 23, the emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, partitioned, or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof."

This would be all right as far as it goes. But it is possible that there might be a misapprehension on the ground that the qualification governs the latter portion of the clause as well as the former and therefore the new words may be inserted preferably before the words "and it shall not be lawful." In this draft, *viz.*, the first alternative, are only dovetailed a few words suggested at yesterday's meeting and therefore no further explanation from me seems called for.

The second alternative is shorter and perhaps reads better. It is a reproduction of a portion of the Potgi Rule XXXIV. With the addition of the words I have just mentioned, the clause would read as follows :—

(2) "The emoluments of village offices, whether such offices be or be not hereditary, shall not be alienated or assigned to any person whatever without the sanction of Government and save as further provided by rules made under Section 23; nor shall they be liable to the process of any Court."

In deference to the opinions expressed yesterday by two of my learned colleagues on the other side of the table for whose long experience I have the highest respect, I have tried in my third alternative to meet their views half way, *i.e.*, as far as I could go with due regard to past history and future requirements, and consistently with the desire of one and all here to abstain from the infliction of any avoidable hardship. That draft reads as follows :—

(3) "Clause 5 to remain as it is, with the following addition :—

'Provided that

(*i*) Nothing contained in this section shall be deemed to affect transfers or partitions as between different members of a hakdar's family made, or which may hereafter be made, with the previous sanction of Government; and

(*ii*) Other alienations effected before the coming into force of this Regulation shall be subject to the operation of the rules made by Government under Section 23.'"

Clause 5 will remain as it is. The prohibition against alienation, partition and encumbrance will remain intact and there will be added to it two provisos in the terms expressed above.

A word or two by way of explanation seems to be necessary in this connection. The first and second alternatives contemplate and provide for future alienations as well as past alienations, irrespective of the nature of the transaction and of the parties concerned, the only condition attached being Government sanction and adherence to Rules under Section 23; while the third alternative provides only for transfers and partitions and that too only in the case of members of the hakdar's family. The clause, as it is will hold good and therefore there will be no law authorising future alienations except such alienations between members of the hakdar's family as might be made after obtaining the previous sanction of Government.

It will be seen that the first and second alternatives are more liberal than the last one; but, after full consideration, I am inclined to think that the circumstances of the case do not require any such liberality on the part of the Government or the legislature, and that the third alternative will meet all reasonable requirements. I would accordingly commend it to the acceptance of the Council, our chief concern being to abstain from interfering with vested or supposed vested interests and not to encourage the creation of future rights not allowed by law. If this last draft is passed, there can be no real grievance, because we shall be simply giving effect to what has been all along understood—that except in so far as the families immediately concerned go, there can be no change of lands from one party to another, the reason being that such lands are service lands and should go with the office or go to persons who are in some way connected with the office. In either case, much will be left to the rules which, I am sure, will be conceived in a liberal spirit so as to minimise interference with vested rights and interests. As regards future alienations, the draft reiterates the existing law and discountenances such alienations except to a very limited extent. So far there can be no reasonable objection to it. It is only to alienations that have already taken place—for which Government agency has been no less to blame than the parties concerned—that any indulgence has to be

shown by Government, and as I appealed to Government in another connection yesterday, I would ask that in framing rules these circumstances may be borne in mind so that no undue hardship may be inflicted upon the people concerned. The cardinal principle is that indiscriminate transfers of service lands from hakdar's families should not be allowed and that unnecessary dismemberment of such lands in the families themselves should not be encouraged, and this principle will be sufficiently complied with by the third alternative which I have now the honour of submitting for discussion at this meeting.

MR. M. KANTHARAJ URS.—I beg to second the adoption of the third alternative proposed.

MR S. NARAYANA RAO.—From the discussion that took place, the impression left on my mind was that under the present law applicable to lands attached to the offices of toti, talari and nirganti, the person who holds the office for the time being will be entitled to be in possession of the whole land attached to the office and any arrangement made amongst the members of the family as to partitioning will not be allowed and the land will be summarily resumed and restored to the office-holder for the time being; but that with reference to the lands attached to shanbhogs' and patels' offices, partitions and divisions already effected will be left untouched and future partitions and sub-divisions will alone be prohibited. It was to meet this exposition of law that an addition to clause 5 was intended to be introduced; because, without any qualification to clause 5, it would make no difference between lands attached to the offices of toti, talari and nirganti on the one hand and lands attached to the offices of shanbhog and patel on the other. As the rules on this subject at present are rather obscure and not clearly understood, it was intended to make this point clear by adding a sub-clause to clause 5, so as to comprehend the principles applicable to these two different sets of offices. I do not know if I have made myself clear on this point. I wish to repeat once more that I distinctly understood that with reference to lands attached to toti, talari and nirganti, no separation of the lands from the office and the performer of the office for the time being will be allowed and that if it has taken place in the past, such lands will be summarily resumed and restored to the office-holder when the Government comes to know of the alienation; but with reference to shanbhogi and pateli lands, the sub-divisions made among members of the family by agreement among themselves, as to the enjoyment of different portions by different members, will be allowed to remain undisturbed, but only future sub-divisions will be prohibited. It was, I think, to comprehend these principles that a proviso was required to be added to clause 5. It seems to me that none of the three different alternatives now placed before the Council makes this distinction between the two sets of offices and that it is necessary to differentiate them.

If what I have just said be the correct principle which should guide us in legislating with reference to those lands, it seems to me that clause 5 as at present framed by the Select Committee may be allowed to remain with the addition of the following two provisos, *viz.*—

"(*i*) The lands attached to the offices of toti, talari and nirganti cannot be separated from the offices and any partition or alienation thereof will not be recognized.

(*ii*) The lands attached to the shanbhogi and pateli offices which have been already partitioned among the members of the hakdar's family will not be disturbed but further partitions or alienations from the family are prohibited."

The addition of these two provisos will meet the requirements of the case and I hope that this amendment will commend itself to the Council.

PRESIDENT.—With regard to the first alternative of Mr. C. Srinivasiengar, has any Hon'ble Member to make any remarks?

MR. C. SRINIVASIENGAR.—I request you, Sir, to first draw the attention of the Council to the last alternative. That is the one that has been seconded.

MR. B. NAGAPPA.—It will be better to consider and discuss all these amendments together.

PRESIDENT.—Yes, we may take them all together.

MR. T. ANANDA RAO.—It is difficult to divine what variety of cases may arise or what vested interests have grown out of departures from rule more or less counte-

nanced by local officers. So it is quite possible that I do not realise the various classes of cases that would come under one or other of the alternatives. So I speak with diffidence, and that diffidence makes me fall back upon words and phrases to which I am accustomed. That is a safe principle by which to be guided. The second alternative proposed by Mr. Srinivasiengar corresponds to the rules now in force, and I would therefore second it.

MR. C. SRINIVASIENGAR.—I beg you will permit me, Sir, to withdraw alternatives 1 and 2 because I am myself diffident about them; but as regards 3, I stand on surer ground.

MR. T. ANANDA RAO.—I do not know whether that can be done now. So, being rather sceptical as to the classes of cases and not knowing them, I prefer the second alternative, because it corresponds to the existing Potgi Rules. The only possible objection is that, being a Potgi Rule which relates to patels and shanbhogs, it would cover nirganti, toti and talari offices, if it be adopted here. But I don't think that it would cause any complication and therefore I second it.

MR. B. NAGAPPA.—May I ask whether the sanction of Government is required in respect of lands attached to pateli and shanbhogi offices, which have to be partitioned or divided among the members of the hakdar's family?

MR. C. SRINIVASIENGAR.—Under the Potgi Rules, sanction is required.

MR. B. NAGAPPA.—But, in practice, it is not so. If the land is in the hakdar's family, Government does not interfere; but if in the hands of a stranger, Government will interfere.

MR. C. SRINIVASIENGAR.—It is left to Government, in administering the rules, to give or refuse sanction.

MR. B. NAGAPPA.—From what fell from the President I understood that all such lands are to be treated as private property. In practice, we see so many lands being partitioned among hakdars and no objection seems to have been taken to such partitions being effected. The hakdars enjoy the lands peaceably. That seems to have been the practice hitherto.

MR. C. SRINIVASIENGAR.—Even now the lands will not be taken away.

MR. B. NAGAPPA.—Suppose there are four brothers. Can they divide the service lands among them without the sanction of Government?

MR. C. SRINIVASIENGAR.—If, without previous sanction, the lands have been divided, Government in administering the rules will consider whether the division may be sanctioned or must be set aside.

PRESIDENT.—When land is assigned as remuneration for the office, it shall not be partitioned. In regard to patels and shanbhogs, a distinction has to be drawn between land and cash. Whatever is assigned to the officiator, that shall not be interfered with, partitioned or alienated. But these restrictions do not apply to land that does not go with the office—that was hitherto attached to the office, but is now separated from it.

MR. B. NAGAPPA.—May I take it, then, that these restrictions apply only to the service inam lands of totis, talaris and nirgantis?

PRESIDENT.—Among the matters in respect of which the bill gives power to Government to frame rules under clause 23 are, (1) the action to be taken in respect of any alienation of emoluments contrary to the provisions of clause 5 (para iv), and (2) the emoluments to be assigned to the holders of village offices and the method of assessment and payment thereof (para vii). I believe it is open to Government under the latter para to declare what the emoluments assigned to the holders of village offices are. It will be there made clear that land does not form part of the emoluments assigned to the holders of the village offices of patel and shanbhog. That being so, we have now to consider how the proviso to clause 5 should be framed. The emoluments declared to be assigned to holders of village offices have to be considered separately from the emoluments attached to these offices. Service inam land, for instance, attached to the office of patel or shanbhog would not come under the head of emoluments assigned to the holders of those village offices. So, partition and transfer of such lands may be freely allowed. The rules framed by Government will only declare that the land does not form part of the emoluments of the holder of the

office. Should we not say something in clause 5 on the lines of what the Government Advocate suggested? The expression used in clause 5 is a general one *viz.*, "emoluments." The clause as proposed to be now amended by the third alternative of Mr. Srinivasiengar would apply to lands attached to the offices of patel and shanbhog also. But the existing practice and policy in regard to these lands is to leave their partition and transfer as between members of the hakdar's family untouched and unaffected. Sanction of Government is not required for such partition or alienation between members of the hakdar's family. So I suggested to Mr. Srinivasiengar to improve the wording of the clause so as to allow partition and transfer among members of the hakdar's family in the case of lands attached to the offices of patel and shanbhog.

MR. C. SRINIVASIENGAR. Then there is no need to make any provision at all with reference to shanbhogi and pateli lands as they will be dealt with by the rules to be framed under clause 23. We all understood that clause 5 was general and applied to all emoluments.

MR. S. NARAYANA RAO. There is another difficulty. Though lands attached to shanbhogi and pateli offices are not strictly emoluments, yet if they are continued to be annexed to the office, they would be considered to be emoluments. I would invite your attention to the words of clause 4 defining "emoluments" and specially to the words "granted or annexed." So, though the lands may not be considered as part of the officiator's remuneration or taken into consideration in fixing his pay, salary or remuneration, yet if they continue to be annexed to the office and are not completely severed from it, they would form part of the emoluments of the office, and the term "emoluments" used in clause 5 must be taken in the same sense throughout. We cannot take the term in its full signification in construing clause 5 and use it in a restricted sense in framing rules under clause 23, para 7. In framing rules we cannot go beyond the express terms of the enactment itself by excluding land from the term remuneration or emolument.

PRESIDENT. The object of the rule is to define what shall be the emoluments which are assigned to the holder of the office in each instance.

MR. S. NARAYANA RAO. Then we shall be landed in another difficulty. If in the rule we say that the lands attached to the offices of patel and shanbhog are not emoluments of those offices, but yet they continue to be annexed to them (because we must say that the lands continue to be attached to the offices in order to prevent their alienations), then as long as they so continue to be attached, they would come under the definition of emoluments as laid down in clause 4.

PRESIDENT. But they are not assigned to the holder of the office. That is the distinction drawn in the rule. As regards patels and shanbhogs, lands are emoluments; they are attached to the offices of patels and shanbhogs. But, in the rules to be framed, we will say that lands are not emoluments assigned to the holder of the office.

MR. S. NARAYANA RAO. Whether assigned or not assigned to the holder of the office, they come under the prohibition of clause 5. Distinction should be made between lands attached to toti, talari and nirganti offices and lands attached to pateli and shanbhogi offices.

PRESIDENT.—We make an exception in the case of lands attached to pateli and shanbhogi offices. The prohibition will hold good in the case of the lands of toti, talari and nirganti. The general clause will govern the cases of toti, talari and nirganti, but an exception will be made in the case of lands attached to the offices of patel and shanbhog and not assigned to the holder.

MR. SYED AMIR HASSAN. If the inam land is found useless by the holder of the office of toti, talari or nirganti, can he relinquish the land?

PRESIDENT. The question of remuneration is one between Government and the village servant.

MR. S. NARAYANA RAO.- Proviso (i), third alternative, is, "nothing contained in this section shall be deemed to affect transfers or partitions as between different members of a hakdar's family." I think a distinction should be made there between the lands of pateli and shanbhogi offices and those of toti, talari and nirganti.

PRESIDENT.—Yes, we will make the distinction in the proviso. According to

clause 5 as amended by the Select Committee, there can be no alienation of the lands even among ~~holders.~~ heirs

MR. K. P. PUTTANNA CHETTY.—The lands go with the office. Why should any alienation be permitted? There ought to be none at all. The principle is to keep the lands inalienable.

MR. M. C. RANGIENGAR.—The difficulty arises in applying logical principles to an illogical set of circumstances.

MR. K. P. PUTTANNA CHETTY.—We have to legislate according to present practice and procedure.

MR. M. C. RANGIENGAR.—May I know if clause 5 is intended to have retrospective effect? If not so intended, alienations and partitions effected before this Regulation comes into force will remain unaffected by it.

PRESIDENT.—But if they have been assigned as remuneration for village offices, we will have to resume such lands.

MR. M. C. RANGIENGAR.—Then you put in force the Potgi Rules. Alienations already effected are governed by the Potgi Rules. After the passing of this Regulation, the Potgi Rules will cease to have force.

PRESIDENT.—Then we have to reproduce the Potgi Rule in this enactment.

MR. M. C. RANGIENGAR.—Then I think clause 5 will have to be recast entirely.

PRESIDENT.—But why should we not introduce in clause 5 a proviso to the following effect:—

"Provided that in the case of lands which are not assigned as emoluments to the holder of a village office under rules framed under Section 23, nothing contained in this section shall be deemed to affect transfers or partitions as between different members of a hakdar's family?"

MR. K. P. PUTTANNA CHETTY.—This will apply only in the case of patels and shanbhogs. The prohibition will be absolute in the case of all others.

PRESIDENT.—As regards alienations effected before the coming into force of this Regulation, Government have taken power under para (iv) of clause 23 to make rules as to how to deal with them. So, the second proviso in Mr. Srinivasiengar's third alternative may be omitted altogether.

MR. M. C. RANGIENGAR.—It would be better to say "declared to be assigned" in the proviso that has now been suggested. What will be done under clause 23 is more by way of declaration.

PRESIDENT.—Both with regard to lands attached to patels and shanbhogs and emoluments generally, they will be dealt with under para (iv) of clause 23, when they happen to be alienated. It is only with regard to transfers and partitions as between members of a hakdar's family of lands attached to the offices of patels and shanbhogs that we recognize the existing transfers and partitions and allow future transfers and partitions also without sanction.

MR. K. P. PUTTANNA CHETTY.—Proviso (ii) in Mr. Srinivasiengar's third alternative is not necessary. Alienations effected before the coming into force of the present Regulation will be governed by the rules then in force.

PRESIDENT.—The second proviso seems unnecessary. The first proviso with the amendment just suggested will read thus:—

"Provided that in the case of lands which are not assigned as emoluments to the holder of a village office under rules framed under Section 23, nothing contained in this section shall be deemed to affect transfers or partitions as between different members of a hakdar's family."

MR. M. C. RANGIENGAR.—Is there any object in omitting the word "encumbered" in the proviso?

PRESIDENT.—We may put in "encumbered" also. Mr. Srinivasiengar will please consider if he cannot put this as his amendment.

MR. SRINIVASIENGAR.—I beg to propose that the following proviso be added to clause 5:—

"Provided that in the case of lands which are not assigned as emoluments to the holder of a village office under rules framed under Section 23, nothing contained

in this section shall be deemed to affect transfers, partitions or encumbrances as between different members of a hakdar's family."

MR. B. NAGAPPA.—I beg to second the proposition.

The proposition was put to the Council and was carried, the votes being 11 *for* and one not voting.

CLAUSE 15.

MR. C. SRINIVASIENGAR.—With the permission of the President I would like to say a few words with regard to the amendment of clause 15 which was proposed and carried yesterday and with reference especially to Civil Courts being given jurisdiction in the cases contemplated therein.

The wording of proviso (ii) to sub clause (i) of clause 11 copied from the Madras Act having been held to be unsuitable to Mysore, I thought yesterday that some provision was to be made somewhere for the entertainment of suits. The question was what sort of suits were to be held to lie and by what Court they should be adjudicated upon; and I brought out practically a long list of cases which might possibly come before the Courts for decision and I proposed that all those cases should be handled by the Revenue Courts. Mr. Ananda Rao brought forward simultaneously another amendment in which the litigation contemplated was limited to disputes between members of a hakdar's family and it was also proposed in that amendment that Civil Courts might take cognisance of such suits. My amendment involved a number of matters, while the other involved a single matter; and the question resolved itself into what Court should deal with that matter. I do not know if the point thus narrowed was prominently brought to the notice of the Council here. At any rate, I have long been of opinion and I continue still to be of opinion that all cases relating to service land annexed to a village office should be adjudicated upon by Revenue Courts. I have not heard of any complaints of injustice, and though my lawyer friends seem to say that Civil Courts are better suited to try these cases, I really do not know how Revenue Courts are incompetent. Our revenue machinery is quite as good as our Civil Courts; evidence is taken similarly; parties and witnesses are heard; if parties wish to be heard by Advocates, this is also allowed; from an order passed by an Assistant Commissioner an appeal lies to a Deputy Commissioner; from a Deputy Commissioner's order there is an appeal to the Revenue Commissioner who is the Chief Controlling Revenue authority. Second appeals are also allowed in the case of village offices. Provision has been made for reference to Government in cases of doubt or Government of its own accord can call for records and revise the orders of subordinate officers. They can refer cases to the Chief Court. So that it will be seen that the whole machinery is complete in itself and to my mind no change is called for. I don't know if my colleagues here know of any instances in which people have greater confidence in Civil Courts than in Revenue Courts. So far as I understand, I think Revenue Courts can deal with such cases more expeditiously and with less cost and inconvenience to parties. In these circumstances, and regard being had particularly to the fact that till now there has been no reflection on Revenue Courts, I beg to urge that the transfer decided upon yesterday may be reconsidered and I earnestly hope that the Council will give its best consideration to this. There is no object to be gained by this transfer and there is no reason why the suits should not be left to be dealt with by Revenue Courts as heretofore.

As regards complex questions and intricate points of law being involved, they cannot arise any more in suits between hakdars than in other suits to the office. Revenue authorities are given power to dispose of such latter suits and when an officiator or a person who claims the office as well as the emoluments attached to the office can expect justice at the hands of Revenue Courts and when such cases do not involve points beyond the competence of such Courts to decide, I am really at a loss to know what peculiarly complicated questions might arise as between hakdars to justify the contention that such cases cannot be adequately and properly adjudicated upon by Revenue authorities and that therefore a resort to the Civil Courts is necessary.

MR. NAGAPPA.—I beg to oppose the amendment.

PRESIDENT.—No, it is not an amendment. But in view of the complexity of the question, it is as well that we consider the subject from all stand-points.

MR. C. SRINIVASIENGAR.—Messrs. Nagappa and Rangiengar have appeared before Deputy Commissioners and I do not know if they ever found that the Revenue authorities were wanting in the capacity for decision of such cases. While such is the case, I do not understand why they should particularly contend in favor of Civil Courts.

MR. NAGAPPA.—I desire for many reasons that the Civil Courts should decide these cases. In the course of the trial of these cases, complicated questions of law and fact will arise which require for their adjudication not only a thorough knowledge of the revenue law on the subject but a knowledge of general law as well; for instance, there may arise questions of limitation, adverse possession, adoption, inheritance, questions of Hindu Law, etc. The procedure that is prescribed for Revenue Courts is defective. According to Chapter XII of the Revenue Code, wherein the procedure to be adopted by Revenue Officers in the trial of suits is laid down, no provision is made for a party to demand as of right to have all the witnesses examined. There is not a single section among the sections relating to the formal enquiry which allows this right. (Cf. Sections 193, 196 and 201 of the Land Revenue Code; Regulation IV of 1888).

My point is this. The party has no right to demand the officer holding any enquiry to examine all the witnesses he produces. The witnesses may be in attendance, but it is not obligatory on the part of the Revenue Court to examine them. Neither is there any section providing for the arguments to be heard. Hence the procedure prescribed for Revenue Courts to follow is defective.

PRESIDENT.—In the first place, is there any prohibition under the existing law against pateli or shanbhogi inams forming a part of the subject of a suit in a Civil Court?

MR. SRINIVASIENGAR.—Unfortunately this apparently small but really most important matter was obscured by certain other matters at yesterday's discussion. Civil Courts try only those cases in which Government is not implicated. What we did yesterday was practically in supersession of this.

PRESIDENT.—Now, suppose a suit is brought as between the members of a hakdar's family on the ground of succession, adoption, partition or any of those civil rights, in regard to family property generally. There may be properties other than those which are connected with the village office. With regard to the bulk of the property, a party will have to seek relief in the Civil Court and for small bits in the Revenue Court.

MR. C. SRINIVASIENGAR.—Suppose a holder dies and his office becomes vacant. The land attached to the office becomes available and there is a dispute between A, B and C as to who should succeed. The succession involves not only the right to the office but also the right to the lands attached to the office together with other property left by the deceased. Here, a single suit cannot be entertained in respect of all the items. There must be a suit in the Revenue Court and also a suit in the Civil Court. For the office and land there must be a suit on the revenue side, and for other property a suit on the civil side. The same objection holds good there also.

MR. K. P. PUTTANNA CHETTY.—Government interests are concerned only in the one and not in the other.

MR. M. C. RANGIENGAR.—In the case of the office and emoluments, Government is directly interested. It is more an administrative matter, and so Government would have the case tried in the Revenue Court. But the other is purely a civil matter. The circle of litigants is limited, the nature of the contention is civil, and the property is nominally appertaining to the office.

MR. NAGAPPA.—What I submit is hitherto it is with the indulgence of the Executive Council that lawyers were allowed to conduct revenue suits. We have to obtain permission without which we cannot of right appear before the Councillors.

MR. PUTTANNA CHETTY.—Revenue Courts also require relief. They have quite enough work to do without being flooded with suits of this kind.

MR. V. N. NARASIMMIYENGAR.—I think it is rather the other way. There is the Deputy Commissioner of Mysore. I would like to know how many of such cases he has heard for the last six years. I should say not more than six or seven.

Such cases form only a minority. I very much support Mr. Srinivasiengar's proposal that such cases should rest entirely within the jurisdiction of Revenue Courts.

PRESIDENT.—When the dispute is as regards family property generally, the bulk of the property will form the subject matter of a suit before a Civil Court and for a small patch of land the parties will be compelled to go before a Revenue Court. This seems really hard. The right to the office is altogether a different matter. We may omit the amendment made in clause 15, if the members think that the innovation need not be made.

MR. NAGAPPA.—I would rather have the amendment. It is a highly desirable one and moreover it has been passed.

MR. SRINIVASIENGAR.—Only the lawyer members spoke against my suggestion. Perhaps the other members of the Council might agree with me.

PRESIDENT.—What do you say, Mr. Ananda Rao?

MR. ANANDA RAO.—I think the general public opinion is that there is a great conflict of orders in the Revenue Courts. No doubt, the Revenue Officers are equally qualified with the Civil Court Officers. But it is not the merely passing of examinations, nor even in possessing a knowledge of law. It is the practice, the way of drawing up issues, etc., that will help one in such cases. These are matters which an officer in the revenue line generally forgets.

MR. SRINIVASIENGAR.—But now the offices are interchangeable.

MR. NARASIMMIYENGAR.—It is the general opinion that when you go to a Court of law, you don't get justice but you get law.

Mr. PUTTANNA CHETTY.—I hold the same opinion as I did yesterday; I think the whole trend of our recent decisions is to make pateli and shanbhogi service inam lands more and more personal and I think it is one step in that direction to invest Civil Courts with jurisdiction over certain suits in which the subject matter is service inam land

MR. RANGASWAMI IYENGAR.—Going into the question properly would take some time of the Council. In my remarks of yesterday, I said that in construing Section 231, clause (*a*) of the Land Revenue Code, as regards suits concerning inam lands, there were cases in which although Government might not have been made a party, there might be circumstances in which they would have to be impleaded. Where Government has an interest, although not expressly referred to by either party, in such cases the suits should not be taken before a Civil Court. But to-day from what has been discussed in the Council as regards the advisability of the enjoyment of *maniam* lands by sharers of the family of patel or shanbhog, it seems to be only proper to draw a distinction between transactions having reference to the property which implicate Government and transactions which do not implicate Government either expressly or by the circumstances of the case. For instance, I would refer to two or three concrete hypothetical suits which will make my point pretty clear to the Hon'ble members.

(1) Suppose one member sues for partition of shanbhogi inam land along with other property. The provisions now passed would permit the land being partitioned. The character of the land is not denied, whether it is with A or B, with the plaintiff or defendant. The interests of Government do not suffer. Then is it necessary that Government or the Revenue Department should have the right of dealing with such a suit? That is one point.

(2) A member of the family has borrowed money on the hypothecation of the inam land from another member who wants to sue for the recovery of his money. In a case of this kind also, the character of the land is not impugned, and the interests of Government do not suffer.

(3) A third party is given a lease of the shanbhogi lands. The family members do not cultivate the lands themselves; they often lease them to third parties. A third party who has taken such a lease is not interested in saying that the land is unalienated and there is no dispute about the identity of the land. In this case, is it to the interest of Government to require the restriction that such transactions should be excluded from the jurisdiction of the Civil Courts?

In all the above cases is there any provision to decree or have we been decreeing *mesne* profits, costs, etc., when the case is tried by a Revenue Court? If Revenue Courts were to decree these, there may arise great complications in executing the

decrees. Excepting in cases as I said, where the interest of Government in the property would be risked or would be in litigation, is there any object in restricting suits to Revenue Courts ? That is the way to consider the question.

In connection with this question, I would refer to another suit which I alluded to yesterday. The facts of the case are these:—Some shanbhog or patel had sued for property including the inam land and had obtained a decree, and in course of execution he went and attached the crops grown on the inam land. The defendant objected and the Munsiff allowed the objection. But the Chief Court held that as the nature of the inam was not in dispute and as the party had already dealt with it as ordinary property in the Civil Court and as the crop had already been removed from the inam land, the attachment was not bad.

Again I am afraid that in more than one suit, inam lands had been included by oversight along with other property. But, as I said already, the interests of Government require only that cases in which there is any dispute about the character of the inam land or about its identity should form the subject matter of suits filed in Revenue Courts. Other suits relating to inam lands may be left to the jurisdiction of Civil Courts.

PRESIDENT.—But in regard to the third hypothetical case put forward by you as to leases, would not the suit be cognizable by a Civil Court even as to the land annexed to the office, when the dispute is not as to the nature of the tenure?

MR. RANGASWAMI IYENGAR.—The lessee might refuse to give up the land.

PRESIDENT.—I think the explanation is very satisfactory so far. Our ideas have been made clear. Now we will proceed to the next amendment which Mr. Ananda Rao intends proposing in respect of clause 12.

CLAUSE 12.

MR. T. ANANDA RAO.—I beg to propose that the words "the file" be substituted for the word "that" in the 9th line of this clause. This is merely a verbal improvement and needs no explanation.

The amendment was agreed to by the Council.

OLD CLAUSE 12.

PRESIDENT.—The next amendment is that which Mr. Nagappa intends to propose in *re* old clause 12.

MR. B. NAGAPPA.—Sir, I beg to move that all the provisions of clause 12 of the original bill do remain intact and the following new clause be added :—

"The procedure applicable to the framing of plaints, memoranda of appeals and applications for execution of decrees or orders shall be the same for filing suits, appeals and applications under this Regulation as that prescribed in the Civil Procedure Code, subject to such rules as may be framed under Section 23."

The original clause of the draft Regulation contains a wise provision regarding the procedure to be followed. This is borrowed from the Madras Act of 1895. The Select Committee have recommended clause 13 in lieu of clause 12. There is an obvious defect in the new clause proposed. It provides that the same procedure as that prescribed for formal enquiries in the Land Revenue Code, Regulation IV of 1888, be followed in trying suits under this Regulation. Sections 201 and 202, Chapter XII of the Land Revenue Code, deal with formal enquiries. There is no provision in that chapter which enables a party to demand as of right that any person whose evidence he requires shall be examined as a witness. There is also no provision to hear arguments.

This is hardly a desirable state of things. In the interests of justice, it is necessary that a party should have full opportunity to adduce all available evidence in support of his case. I therefore propose this amendment.

In this connection I find that that there are several other amendments proposed to be moved by Mr. Ananda Rao. If the provisions applicable to the trial of Civil suits are made applicable also to revenue enquiries, then the defect would be remedied.

MR. C. SRINIVASIENGAR.—There is an amendment by Mr. Ananda Rao as regards clause 13. All that Mr. Nagappa now urges can go into that.

MR. B. NAGAPPA.—If all the rules made by the Madras Government under their Section 20 are embodied in the rules to be framed under Section 23, there will be no difficulty. These rules are well drawn up.

MR. M. C. RANGIENGAR.—Mr. Ananda Rao and myself have given notice of amendments to clause 13. The Madras Government have framed a body of rules with regard to the trial of revenue suits reproducing *verbatim* the provisions of the Civil Procedure Code. Under clause 23, which is Section 20 in the Madras Act, all those rules may be adopted.

MR. B. NAGAPPA.—I desire that the rules under clause 23 may be the same as those made by the Madras Government under Section 20 of the Madras Act of 1895. If this is done, there is no necessity for the amendment which I have proposed. They have retained the provisions of clause 12 and have made rules also.

MR. SRINIVASIENGAR.—The old clause 12 is not self-contained. There are a good many gaps there. All the necessary provisions are not embodied in it.

MR. B. NAGAPPA.—If it is noted that the rules that are to be made under clause 23 would provide for what is contained in old clause 12, there is no necessity for my amendment at all. The rules to be framed should embody all the provisions contained in the Civil Procedure Code in respect of the filing of suits, appeals and applications.

PRESIDENT.—Why should the provisions of the Civil Procedure Code be reproduced here? What is the corresponding provision in the Revenue Code?

MR. RANGASWAMI IYENGAR.—In the Revenue Code it is not said that the procedure followed in the Civil Procedure Code should be followed in any particular. I was just going to say that since this Regulation is one essentially on the revenue side and since the courts to deal with cases under this Regulation will be Revenue Courts, it is desirable that the procedure and the rules applicable to enquiries should be analogous to those contained in the Land Revenue Code. If so, we need only say that the procedure will be the same as that prescribed in the Land Revenue Code. It is better to amend that Code, if necessary, rather than introduce amendments here, which are purely of a minor character. I simply want uniformity in practice.

MR. M. C. RANGIENGAR.—If the procedure prescribed in the Land Revenue Code be defective, rules may be framed under clause 23.

MR. C. SRINIVASIENGAR.—The procedure laid down in the Civil Procedure Code is referred to in the Revenue Rules also.

PRESIDENT.—If Mr. Nagappa is agreeable to Mr. Ananda Rao's amendment, there is no necessity for his amendment.

MR. B. NAGAPPA.—If the amendment suggested by Mr. Ananda Rao in clause 13 be passed, I will not press my amendment.

The amendment was withdrawn by Mr. Nagappa subject to the amendment of clause 13 against Mr. Ananda Rao's name being passed.

CLAUSE 13.

MR. C. SRINIVASIENGAR.—Sir, I beg to propose that the present clause 13 be turned into sub-clause (2) and that a new sub-clause (1) be added as follows:—

"A formal or summary enquiry under this Regulation shall be deemed to be a 'judicial proceeding' within the meaning of Sections 193, 219 and 228 of the Indian Penal Code, and the office of the officer holding a formal or summary enquiry shall be deemed to be a Civil Court for the purpose of such enquiry."

In the Revenue Code also there is a similar provision, and I have copied this from that Code.

MR. S. NARAYANA RAO.—By declaring the enquiry a judicial proceeding, it will be invested with greater dignity, and there is the probability of witnesses speaking the truth.

MR. B. NAGAPPA.—I may be permitted to suggest a small amendment. There is no distinction drawn in the bill between a formal and a summary enquiry. We may therefore say "all enquiries" instead of the first five words of the amendment.

MR. RANGASWAMI IYENGAR.—Instead of all these, it will be better to treat all enquiries under this Regulation as enquiries under the Land Revenue Code. The procedure therein laid down will apply to all cases mentioned in the present Regulation.

MR. C. SRINIVASIENGAR.—I am afraid that this won't suit.

MR. RANGASWAMI IYENGAR.—I think that the following may be substituted for clause 13:—

"All the provisions in the Land Revenue Code, shall apply in the case of all enquiries conducted under this Regulation."

The scope of clause 23 seems to be much misunderstood. It only provides for framing rules which the substantive provisions of the bill cannot provide for. The words "all the provisions of the Land Revenue Code" will include Section 204 which refers to the provisions of the Penal Code.

MR. B. NAGAPPA.—I think it would be better to have a different clause altogether.

MR. S. NARAYANA RAO.—A question may arise whether a particular proceeding is a judicial proceeding or not. It will be very difficult to determine it if the proposal of Mr. Rangaswami Iyengar be adopted.

PRESIDENT.—We have no formal or summary enquiries under this Regulation. So, we may say "all enquiries."

MR. C. SRINIVASIENGAR.—In the Land Revenue Code several kinds of enquiries are prescribed which we have not got in this Regulation. So I would object to Mr. Rangaswami Iyengar's amendment. I don't object to the change proposed by the President. The object is only to invest the officer with the dignity of a judicial officer.

MR. RANGIENGAR.—If it is declared that every enquiry shall be deemed to be a judicial proceeding, it would be enough.

MR. RANGASWAMI IYENGAR.—Unless we know very well the scope and object of the clause, I would follow the advice given by the First Councillor to adopt the wording of the old Regulation and not to venture on any alterations.

The amendment was passed by the Council with the substitution of "every enquiry" for "a formal or summary enquiry," the clause as passed reading as follows:—

"Every enquiry under this Regulation shall be deemed to be a 'judicial proceeding' within the meaning of sections 193, 219 and 228 of the Indian Penal Code."

MR. M. C. RANGIENGAR.—I withdraw the amendment which I have given notice of in favor of Mr. Ananda Rao's.

MR. T. ANANDA RAO.—Sir, clause 13 as it stands covers only suits filed. Provision has to be made for appeals and applications also. The intention is indeed to follow the provisions of the Land Revenue Code as far as possible in these matters. But it is desirable to relegate instructions to the rules proposed to be issued under clause 23. Indeed, clause 23 as it stands includes this in the several heads for rules therein provided for, and it is unnecessary to make a separate and special mention such as is contained in the present clause 13. I propose that it be modified so as to read as follows:—

"The procedure to be followed with regard to suits, appeals and applications under this Regulation shall be regulated by rules made by Government under section 23."

MR. M. C. RANGIENGAR.—I beg to second the proposition.

This was put to the Council and carried.

CLAUSE 14.

MR. T. ANANDA RAO.—Clause 14 as it stands provides for costs being awarded in respect of decrees and orders passed in suits. It is desirable that this should be extended to enquiries also. With this view, I propose that the words "and enquiries" be inserted after the word "suits" in the 2nd line of this clause.

MR. S. NARAYANA RAO.—I beg to second this proposition.

The amendment was passed by the Council.

CLAUSE 16, SUB-CLAUSE (1).

MR. C. SRINIVASIENGAR.—Sir, I beg to propose that the words "and from every order passed by the holder of a commission exercising any of the powers of an

Assistant Commissioner under sub-section (3) of Section (7)" be inserted after the words "Assistant Commissioner."

Last time I put in a general sub-section dealing with the procedure with regard to appeals in such cases. Mr. Rangiengar said that we should first provide for appeals being filed and then for procedure. I have thought over it and proposed the present amendment.

MR. RANGIENGAR.—I second it and in doing so, I beg to bring to the notice of the Council that a further amendment would be needed. I am sorry I did not give notice of it. Even an Amildar can fine a village servant. Have we provided for an appeal against his order?

MR. C. SRINIVASIENGAR.—This is provided for in another place.

The addition proposed by Mr. Srinivasiengar was approved by the Council.

CLAUSE 16. PROVISO TO SUB-CLAUSE (1).

MR. M. C. RANGIENGAR.—Sir, the existing rules provide for an appeal to Government against the decision of the Revenue Commissioner in appeal on a question of law. I propose that this right of appeal to Government be continued and that the proviso be amended accordingly by the addition of the following:—

"And provided further that nothing contained in this Regulation shall affect the right of appeal to Government secured under the rules relating to the Revenue Commissioner and the Executive Council."

I beg to submit that I could not give the exact description of the proceedings which provide for an appeal against the order of the Revenue Commissioner to Government. I simply said "relating to the Revenue Commissioner and the Executive Council."

MR. RANGASWAMI IYENGAR.—We have got it in Section 210 of the Land Revenue Code as amended by Regulation IV of 1906.

MR. RANGIENGAR.—I propose that the same be continued.

MR. B. NAGAPPA.—I second the proposition.

PRESIDENT.—What is the object of it?

MR. SRINIVASIENGAR.—Formerly appeals from the decisions of Deputy Commissioners used to lie to Government. In 1906, the Revenue Commissioner was constituted the Chief Controlling Revenue authority. In case the Deputy Commissioner dealt with a suit in the first instance, an appeal would lie to the Revenue Commissioner and the Revenue Commissioner's decision would ordinarily be final. But when a question of law is involved, an appeal would lie to Government. The Revenue Commissioner is now exercising the power which used to be exercised by Government formerly.

MR. RANGASWAMI IYENGAR.—The power of revision vested in Government will meet all requirements.

MR. RANGIENGAR.—Under Section 210 of the Land Revenue Code, there is no limit to the number of appeals. Sub-section (2) provides for an appeal to Government against a decision by the Revenue Commissioner while exercising his appellate authority. What is said in that section is that against the decision of one revenue officer an appeal lies to his immediate superior officer. The section contemplates a number of appeals. An appeal lies not only from the decision of the officer who exercises original jurisdiction, but an appeal lies under this section against the decision passed in appeal to that officer's immediate superior officer. That contemplates two appeals.

MR. C. SRINIVASIENGAR.—No. The section allows only one appeal. There is an exception made. If the Revenue Commissioner is the first Revenue appellate authority there can be no appeal against his decision, except on a point of law. I am afraid the amendment made in 1906 is not clearly worded.

PRESIDENT.—I think we might limit the number of appeals.

MR. SRINIVASIENGAR.—In criminal cases only one appeal is allowed, while in Civil Cases a second appeal is allowed. On the same analogy not more than two appeals may be allowed in revenue matters. But there may be revision on the second appeal.

MR. RANGIENGAR.—If it is made compulsory that Government should hear appeals, then the party will be entitled to be heard. It should not be optional to hear parties by reserving only the power of revision. There is a good deal of difference between the exercise of the powers of revision and of appeal.

MR. NAGAPPA.—It is necessary that that there should be an appeal on questions of law. Section 210 A of the Land Revenue Code provides for it and there is no reason why we should curtail that right. There is not much use in merely reserving to Government the power of revision which may or may not be exercised. As Mr. Rangiengar said, there is a great deal of difference between revision and appeal. When an appeal is preferred the party has a right to be heard.

PRESIDENT.—Will Mr. Rangiengar suggest any improvement in the wording of the amendment proposed?

MR. RANGIENGAR.—Yes. The words "Section 210 of the Land Revenue Code Regulation IV of 1888," may be substituted for the words "the rules relating to the Revenue Commissioner and the Executive Council."

MR. SRINIVASIENGAR.—As I said already, there are only two appeals, one to the regular appellate authority and another to the Chief Court and no third appeal is allowed on the civil side. On the revenue side, sub-section (2) of Section 210 of the Land Revenue Code was put in with the object that, if the Revenue Commissioner dealt with a case as the first appellate authority on questions of fact, his decision would be final; while on questions of law a further appeal would lie to Government. That being so, and since there seems no necessity whatever for more than two appeals, I am opposed to the proposed amendment. Whenever necessary, Government can call for records and correct erroneous decisions passed by subordinate revenue officers. This power of revision will, it seems to me, amply meet all requirements.

MR. RANGASWAMI IYENGAR.—I am practically of the same opinion as Mr. Srinivasiengar. I don't see the reason for holding out opportunities for preferring too many appeals. But, at the same time, in order that there may be a uniformity of procedure, the appeal clauses may be either adopted from the Land Revenue Code or those in the Land Revenue Code may be indicated in some other way, as for instance, that appeals under this Regulation shall be regulated in the same way as appeals under the Land Revenue Code.

MR. C. SRINIVASIENGAR.—The amendment is more definitely put and is clearer.

MR. RANGASWAMI IYENGAR.—Then we must introduce another section for revision.

MR. ANANDA RAO.—It is very difficult to exclude personal questions in such matters. If a right of appeal is to be provided for, as proposed by Mr. Rangiengar, that of course will increase our work. But nevertheless it would be better to adopt the amendment in the interests of justice. One good effect of this will be that justice will be better done apart from other considerations. I am therefore in favor of Mr. Rangiengar's amendment.

PRESIDENT.—Then Mr. Rangiengar's amendment may be passed as follows:—

"and provided further that nothing contained in this Regulation shall affect the right of appeal to Government under Section 210, sub-section (2), of the Mysore Land Revenue Code."

This was adopted by the Council, the votes being 7 *for*, 3 *against* and 2 not voting.

MR. C. SRINIVASIENGAR—Sir, I beg to propose that the existing proviso to sub-clause (1) be revised as follows:—

"Provided that in cases of dismissal or removal under section 7 and in suits under section 11, a second appeal from the decision on appeal of the Deputy Commissioner shall lie to the Revenue Commissioner whose decision on such appeal shall be final."

My proposal is that all village officials should be allowed the privilege of further appealing to the Revenue Commissioner. The decision of the Deputy Commissioner dealing with the case should not be conclusive, but there should be a further appeal to the Revenue Commissioner whose decision should, in all cases, be final irrespective of the official concerned. The proviso as it stands differentiates between one class

of village officials and another. My proposal is that all should have the privilege. Not that I propose to confer any new privilege. The privilege already exists, and rather than restrict it in future to a certain set of officials, I propose to extend it to the other set as well.

MR. SYED AMIR HASSAN.—I beg to second the proposal.

MR. B. NAGAPPA.—The amendment may be adopted.

The amendment was passed without opposition.

CLAUSE 16, EXPLANATION TO SUB-CLAUSE (1).

MR. C. SRINIVASIENGAR.—Sir, I beg to propose that the explanation to this sub-clause be omitted. I do not quite understand the object of this explanation. Clause 9 deals with the appointment of village officers in alienated villages. There is also clause 7 which deals with officials in alienated villages. The one is about appointment and the other about punishment; and under clause 16 "from every order passed under this Regulation . . . an appeal shall lie to the Revenue Commissioner . . . ." I do not understand why clause 9 has been singled out. An order under clause 9 is one made under this bill and as such like all other orders it is subject to appeal.

MR. RANGIENGAR.—This was added by the Select Committee. During the discussion that took place a question arose as to whether an order passed by an Assistant Commissioner or a Deputy Commissioner confirming the appointment made by the holder of an alienated village would be called strictly speaking an order. In order to place the matter beyond all doubt, this explanation was inserted. Even in the Civil Procedure Code there is a distinction made between an independent order passed and a confirming order. Where a District Judge confirms an order of the Munsiff, no appeal is allowed against the District Judge's order. But an appeal is allowed against the original order. Similarly a distinction is here made between an original order and an order which confirms that order.

MR. SRINIVASIENGAR.—Please refer to clause 7. Are they not orders in which an appeal lies? The words used there are, declaration and confirmation. The explanation is liable to lead to considerable misapprehension and naturally anybody who construes it might wish to know why this has been put in and why a similar provision does not find a place in the bill in regard to other orders.

MR. RANGIENGAR.—Because other orders are passed by Government officers.

MR. RANGASWAMI IYENGAR.—I think it was passed by the Select Committee under this impression. Although the order is confirmed by the Assistant or Deputy Commissioner, the appointment is made by the proprietor. Probably the idea was to bring the order confirming also under appeal.

MR. SRINIVASIENGAR.—If the inamdar does not make the appointment, the Deputy Commissioner himself makes it and that itself is an order.

MR. RANGASWAMI IYENGAR.—Yes. That is making the matter clearer. Under clause 9, it may be argued that it is only when the appointment is made by the Assistant or Deputy Commissioner on the failure of the proprietor to make an appointment, that an appeal might lie. But the explanation will clear up matters.

MR. SRINIVASIENGAR.—I am not very particular about my amendment being passed. But the object of the explanation is not very clear to me.

MR. RANGIENGAR.—Clause 7 deals with orders subject to confirmation *i.e.*, orders passed by Government officers themselves. Therefore this clause can have no sort of bearing upon the construction of clause 9.

MR. SRINIVASIENGAR.—Clause 9 not only deals with confirmation but with appointment as well. And this explanation refers only to a part of that clause.

MR. RANGIENGAR.—It was understood in the Select Committee that it is an order confirming the original order.

MR. NARASIMMIYENGAR.—I second Mr. Srinivasiengar's amendment.

MR. ANANDA RAO. Whenever there is an appeal, is it an appeal against the original or confirming order?

MR. SRINIVASIENGAR.—An order confirming is the order which is appealable.

MR. ANANDA RAO.—Suppose the inamdar has made an appointment. To whom will an appeal against it lie?

MR. SRINIVASIENGAR.—To the Deputy Commissioner.

MR. RANGIENGAR.—There can be no appeal against a confirming order. It is the original order that is generally appealed against. For instance, a Munsiff makes an order for the appointment of a Receiver and sends the record to the District Judge for confirmation. The District Judge confirms the order. An appeal will lie not against the confirming order, but against the original order of the Munsiff.

MR. ANANDA RAO.—Then the order of confirmation is made as a matter of routine.

MR. RANGIENGAR.—There is no appeal provided against the order made by the proprietor.

MR. RANGASWAMI IYENGAR.—Yes. Then it is an omission. The provision as drafted means that the order confirming is the same as the original order. The object was to treat the confirming order as if it were an order passed originally. And then the Deputy Commissioner has also to confirm the original order sometimes.

PRESIDENT.—Is there no appeal after confirmation by the Deputy Commissioner?

MR. SRINIVASIENGAR.—Yes. There is

PRESIDENT.—What is the sense of the Council about the amendment proposed?

MR. NAGAPPA.—There is no harm done in retaining the explanation. We are all agreed about the principle. The explanation only makes the meaning clear. The order referred to is appealable, and an appeal will lie to the Revenue Commissioner.

PRESIDENT.—Is the explanation necessary then?

MR. NAGAPPA.—I think it is. But it requires to be improved upon a little I shall prepare a draft of an amendment and submit it to the Council to-morrow.

The Council adjourned to the next day (25th March 1908).

WEDNESDAY, 25TH MARCH 1908.

The Council met at 3 P.M.

PRESENT.—All except Mr. Kantharaj Urs.

MR. B. NAGAPPA.—Sir, in connection with the explanation to clause 16, I proposed yesterday that I would redraft it. On reconsideration I think the explanation is not necessary. Clause 16 itself contains the necessary provision and is plain enough. The sense of the Council seems to be that there should be an appeal from the order confirming the appointment. Such being the case, I do not think the explanation is necessary. I beg to second the proposal of Mr. Srinivasiengar to omit the same.

PRESIDENT.—If the Council agrees, we shall omit it.

The Council agreed to omit the explanation to clause 16.

CLAUSE 16, SUB-CLAUSE (2).

MR. C. SRINIVASIENGAR.—Sir, I beg to move that the words "and from every order passed by the holder of a Commission exercising any of the powers of an Amildar or a Deputy Amildar under sub-section (3) of Section 7" be substituted for the words "and from every order passed by a holder under sub-section (3) of Section 7." This also arises from the amendment that was made at the last sitting of the Council providing for the holders of alienated villages being authorized by commission to punish their village officers. Some holders may be entrusted with higher powers than others. In the case of those exercising higher powers, we have made provision for appeal in sub-clause (1) of this clause. The present amendment is to provide for appeals from the orders of holders of commission who exercise Amildars' powers. As I said, I had proposed that the provisions regarding appeals should apply *mutatis mutandis* to such appeals. But, on a further consideration of the objection taken at

the last sitting, I am of opinion that we have to provide for appeal before laying down the procedure. I therefore propose that the amendment may be adopted. It is only the formal insertion of a few words.

MR SYED AMIR HASSAN.—I beg to second the amendment.

MR. M. C. RANGIENGAR.—Yesterday while considering sub-clause (1) of clause 16, the amendment proposed by Mr. C. Srinivasiengar to insert the words "and from every order passed by every holder of a commission exercising any of the powers of an Assistant Commissioner under sub-section (3) of Section 7" after the words "Assistant Commissioner" in that sub-clause, was adopted. Would it not be better to insert the words "exercising the powers of an Assistant Commissioner, Amildar or Deputy Amildar" for the words "Assistant Commissioner" in that amendment?

MR. C. SRINIVASIENGAR.—The appeal in the one case lies to the Deputy Commissioner, while in the other to the Deputy Commissioner or the Assistant Commissioner.

MR. A. RANGASWAMI IYENGAR.—I have got one doubt about this amendment. I have just now been able to lay my hand on the original provision for investing the holders of inam villages with the powers of an Assistant Commissioner or an Amildar or a Deputy Amildar. If these holders of inam villages can also fine as holders, then there would be no necessity for this amendment. There was some reason for putting it in sub-clause (1), because there was no reference there to holders holding any powers at all. As it was not intended originally that they should exercise the powers of an Assistant Commissioner, they were not referred to there. But the present sub-clause (2) has the words "from every order passed by a holder under sub-clause (3)." They would include one who is invested under a Commission with the powers of an Amildar or a Deputy Amildar. Cannot the holder of a village exercise any power under this Regulation without being so empowered?

MR. C. SRINIVASIENGAR.—He can do so only under a Commission.

MR. V. N. NARASIMMIYENGAR.—A holder cannot even fine à toti without a Commission.

PRESIDENT.—What is the sense of the Council as regards this amendment?

The Council agreed to adopt it.

MR. T. ANANDA RAO.—I beg to propose that thewords "decision or" be inserted after the word "every" in the last line and the words "or Section 11 A" after the words "Section 7" in the 4th line.

These amendments are consequential on the adoption of the new clause, *viz.*, 11 A and provide for appeals from decisions passed on complaints made under that clause.

MR. C. SRINIVASIENGAR.—I second it.

PRESIDENT.—I believe the Council is agreeable to it.

This was agreed to by the Council.

CLAUSE 17.

PRESIDENT.—We come next to the amendment to clause 17, which Mr. B. Nagappa intends moving.

MR. B. NAGAPPA.—Sir, I find an amendment by Mr. Ananda Rao to the effect that this clause be omitted. I shall await the decision of the Council on that amendment.

MR. T. ANANDA RAO.—I beg to propose that the whole clause be omitted. It provides against the contingency of a case coming up in appeal before an officer who had himself dealt with it in its original stage. A provision of this kind is hardly necessary in a statute such as we are considering, as it may well be presumed that the officer concerned will not deal with the appeal but will seek the instructions of his official superior.

MR. M. C. RANGIENGAR.—If there is a provision in the bill for the transfer of cases, then there will be no necessity for such a clause; but if there is no provision for transfer, then provision will have to be made for the same. Now there is a provision in clause 12 for the transfer of suits from one Assistant Commissioner to

another. It may so happen that the Assistant Commissioner may himself become the Deputy Commissioner. As the higher authority can always be moved to transfer the appeal, as the First Councillor pointed out, there can be no possible objection to such a transfer. The High Courts are given power to transfer cases from the file of one District Judge to that of another.

MR. C. SRINIVASIENGAR.—Suppose the Revenue Commissioner happens to have been the Deputy Commissioner who passed an order; is there power expressly given to Government to hear an appeal from the Deputy Commissioner's order? Why say all this here?

PRESIDENT.—It does not appear to be necessary that such a small enactment as this should make provision for contingencies that are not likely to arise.

MR. NAGAPPA.—In that case, clause 12 may be amended slightly. In very many cases we find that the same officer who made the original order is promoted and the appeal comes before him alone for decision as the appellate authority. It is not right that such an officer should hear the appeal in such cases.

PRESIDENT.—Have you a large number of appeals of that kind? If such a thing happens, there is remedy on the revision side.

MR. B. NAGAPPA.—It is doubtful whether there is revision on questions of fact.

PRESIDENT.—Mr. Ananda Rao proposes to move an amendment to allow revision on questions of fact also. If an officer has been so wanting in discretion as to try in appeal a case which has been disposed of by himself, there cannot be a better case for Government stepping in and taking the necessary action. This is a small matter.

MR. M. C. RANGIENGAR.—But, supposing such a case happens, what is the man to do? Is he to submit the records?

PRESIDENT.—What do you do in such a case, Mr. Rangaswami Iyengar?

MR. A. RANGASWAMI IYENGAR.—If the Deputy Commissioner says that the party did not come up to him in appeal but that he has no objection to the case being disposed of by the Revenue Commissioner, it is disposed of by him. The procedure is not quite regular. The Land Revenue Code only provides that an appeal lies to the Officer's immediate superior authority.

PRESIDENT.—Can we not make the necessary provision in clause 12?

Mr. K. P. PUTTANNA CHETTY.—Government have no power to hear appeals under this Regulation except on a point of law.

MR. C. SRINIVASIENGAR.—If the Revenue Commissioner can call for the record of any enquiry or any proceeding held by such officer, is not the provision sufficiently comprehensive?

MR. M. C. RANGIENGAR.—It will be sufficiently comprehensive if pending cases are also included. Otherwise, it will apply only to such cases as have been decided.

MR. C. SRINIVASIENGAR.—If you retain the clause, you have also to provide for the Revenue Commissioner sending up cases to Government.

MR. B. NAGAPPA.—There is no harm in retaining the clause.

MR. T. ANANDA RAO.—Then, I beg to withdraw my amendment.

Mr. Ananda Rao was allowed to withdraw his amendment.

MR. B. NAGAPPA.—Sir, I beg to move that the following proviso be added after the word "final" in clause 17:—

"and provided that in respect of the offices of patel and shanbhog a second appeal shall lie to the Revenue Commissioner against the decision on appeal of the Deputy Commissioner."

Suppose the Deputy Commissioner passes an order in this case. As the wording stands, the order passed on appeal will be final. There will be no second appeal to the Revenue Commissioner as is provided for in clause 16. I believe it is necessary to insert the words proposed. It secures to the appellant the right given under the other section.

MR. C. SRINIVASIENGAR.—We cannot very well stop with the Revenue Commissioner. We may leave the Revenue Commissioner altogether. We may say

"higher authority." It will include the Revenue Commissioner making a reference to Government.

MR. S. NARAYANA RAO.—That will be a better provision.

After further discussion, it was resolved to amend the clause as follows:—

"17. If the officer to whom an appeal is presented under this Regulation happens to be the officer who in another capacity passed the decision which is appealed against he shall report the fact to the authority to whom an appeal from his decision would lie, and such authority shall dispose of the appeal in accordance with law."

CLAUSES 18 and 19.

MR. T. ANANDA RAO.—Clauses 18 and 19 are what may be called the reference and Revision clauses of the bill under consideration. The amendments I propose are calculated to bring these provisions in line with what exist on the same subject in the Land Revenue Code, for example, *vide* Sections 217 and 226. People are familiar with these latter, and it is desirable to adopt them in preference to others specially devised. Two important alterations are introduced in the proposed clause. One is that provision is made for doubtful questions of law or usage being referrable to the Chief Court which in this matter is a far more satisfactory tribunal than the Revenue Commissioner. The other is that provision is made for revision of the orders passed by the holder of a Commission in an alienated village under sub-clause (3) of clause 7 as adopted by this Council the other day. I propose that clauses 18 and 19 be omitted and the following substituted in their place:—

"The Government and any Revenue officer not inferior in rank to an Assistant Commissioner may call for and examine the record of any inquiry or the proceedings of any Revenue officer subordinate to it or him and may pass such order thereon as shall seem fit; and the Government may also refer questions for the decision of the Chief Court. The provisions of the Land Revenue Code, IV of 1888, as regards revision of proceedings and reference to the Chief Court shall apply to revision of proceedings and reference to the Chief Court under this section."

"*Explanation.*—For purposes of revision of orders passed by the holder of a commission under sub-section (3) of section 7, such holder shall be deemed to be an Assistant Commissioner or an Amildar according as he is invested with the powers of an Assistant Commissioner or an Amildar respectively under the above mentioned sub-section."

MR. B. NAGAPPA.—I beg to second the above amendment and in doing so to bring to the notice of the Council that the original clause 19 was not quite clear as to whether the Revenue Commissioner had power to interfere on questions of fact, because it was drafted on the lines of Section 622 of the Civil Procedure Code. As the present amendment is wide enough to cover cases where Government or the officer concerned can go into questions of fact, I beg to second it.

PRESIDENT.—What is the sense of the Council with regard to the amendment seconded by Mr. Nagappa?

MR. C. SRINIVASIENGAR.—I think that clause 18 as drafted is somewhat defective in certain respects. But the amendment now proposed covers the same ground and also clause 19. I think it may be adopted.

The Council agreed to adopt the amendment.

PRESIDENT.—Then, as a consequence of this amendment having been passed, the amendments put down against Messrs. Rangiengar and Srinivasiengar may perhaps be considered as withdrawn.

Messrs. Srinivasiengar and Rangiengar with drew the amendments of which notice had been given by them in respect of clauses 18 and 19.

CLAUSE 20.

MR. T. ANANDA RAO.—Sir, clause 20 provides for review of judgment. No special and separate provision to this effect seems to be necessary here. Clause 13 as amended to-day meets the requirements by bringing all matters of procedure under this bill in line with the prescriptions of the Land Revenue Code. Therefore I propose that clause 20 be omitted.

MR. C. SRINIVASIENGAR.—How does clause 13 affect this ? It relates to procedure. If there is an application for review, how it should be dealt with will be a matter of procedure and would come under clause 13.

PRESIDENT.—The proposal to omit clause 20 is not based on the amendments effected in clause 13. Mr. Ananda Rao says that no such provision exists in the Land Revenue Code.

MR. B. NAGAPPA.—Although there is no provision, yet reviews are often entertained. Now we only legalise it.

PRESIDENT.—A general declaration that as far as may be the procedure laid down in the Revenue Code shall be followed, ought to suffice. These minute details are unnecessary. There must be some sort of proportion in a Regulation of this kind. It is a small provision and it does not find a place even in so elaborate a Code as the Land Revenue Code. The question is whether so much prominence should be given to it and provision made for it in the bill. It will only serve to increase the number of sections. As there is no provision in the Revenue Code for reviews, and it is only a matter of practice, why should not the same practice be set up under this bill ? Government has no particular object in omitting it. I only throw out a suggestion.

MR. B. NAGAPPA.—Experienced Revenue Officers entertain and dispose of review applications, but all officers will not do so.

MR. C. SRINIVASIENGAR.—Where is the need for an express provision like this ? No such need has been felt for years. I can understand a section like this finding a place in the Civil Procedure Code with 500 and odd sections.

MR. B. NAGAPPA.—It is not the smallness of the Regulation that is prominent but the importance of the question of offices dealt with.

MR. T. ANANDA RAO.—My personal impression is that the present procedure is justified under Rule 102 of the Land Revenue Rules. But some are of opinion that it is not.

MR. K. P. PUTTANNA CHETTY.—I beg to second Mr. Ananda Rao's proposal.

Mr. Nagappa having withdrawn the amendments in respect of clause 20 standing against his name, Mr. Ananda Rao's amendment to omit that clause was put to the Council and was agreed to.

CLAUSE 21.

MR. C. SRINIVASIENGAR.—Sir, I beg to move that the words "a suit for registering a minor as a successor to a village office may be brought at any time during the minority of the claimant and provided further that" occurring in this proviso be omitted.

Will those of my friends who sat on the Select Committee kindly enlighten me on the significance of this provision ? As the minor can sue at any time during his minority, I do not know what the object was with which the provision was inserted in this proviso. Under clause 11 which provides for the institution of suits, there is this expression, "or being a minor, may sue to be registered as successor." Being a minor he can sue so long as his minority endures. Why the words I have mentioned should exist in clause 21 I cannot understand.

MR. B. NAGAPPA.—I beg to second the amendment.

The Council agreed to omit the words proposed.

CLAUSE 22.

MR. T. ANANDA RAO.—The proposal as regards clause 22 is merely verbal. It is to substitute for the Latin phrase "*mutatis mutandis*" its English equivalent 'as far as may be.'

On further consideration, it seems to me that the words may be omitted altogether.

MR. B. NAGAPPA.—I beg to second the motion to omit those words.

MR. C. SRINIVASIENGAR.—As several things are mentioned in Section 12 of the Limitation Act and only some of them will apply here, I think the words may be retained.

The Council agreed to substitute "so far as may be" for "*mutatis mutandis.*"

CLAUSE 23.

MR. M. C. RANGIENGAR.—I propose that the words "filing and in" be inserted before "disposing" in sub-clause (1) (v) of this clause.

MR. B. NAGAPPA.—I beg to second this.

The Council agreed to the above and also to the transfer of the word "applications" after "appeals" in this sub-clause.

MR. M. C. RANGIENGAR.—Sir, I beg to move that the following be added to this clause:—

"The Government shall, before making rules under this section, publish in the official Gazette, a draft of the same together with a notice calling on the persons interested and the public to state in writing their objections, if any, to the draft rules within a period of not less than three months from the date of the publication of such draft and notice. On the expiry of the period aforesaid, the Government shall consider such objections and pass such rules as may appear to it proper."

This is merely a reproduction of what is found in the Acts in British India. Generally the rules are published in the official Gazette, and some time is fixed within which representations are made, and Government consider them before the rules are finally adopted. I therefore beg to propose this addition to clause 23.

MR. B. NAGAPPA.—I second this amendment. It is necessary to give publicity to the rules and invite the opinion of the general public interested in them.

PRESIDENT.—The question is whether Government is to tie itself down and to be under this restraint of having to publish the rules before passing them. Government will, of course, take care to see that the rules are not inconsistent with the Act, and their action will be subjected to criticism. The rules cannot be kept secret. They can also be amended afterwards and summarily too without referring to the Council. I do not think there is any necessity for a provision of this kind being inserted here.

MR. NAGAPPA.—The Rules may be published for general information.

PRESIDENT.—Then why should we not make the Rules also subject to legislation i.e. make them part of the Regulation itself? I think that this is a matter which Government may well be trusted with.

MR. RANGIENGAR.—As the sense of the Council seems to be against the introduction of the clause, I won't press for a division.

Mr. Rangiengar withdrew the proposal.

The necessity of amending or adding to the provisions regarding Rules to be framed under this clause in consequence of the amendments in the other clauses of the Regulation was then discussed and it was agreed by the Council to add the following words in sub-clause (1), para (i) of this clause:— "and the selection of persons to fill offices newly created under Section 6."

SCHEDULE.

MR. B. NAGAPPA.—Sir, I beg to move that the following alterations be made in the Schedule:—

"In (1), substitute "6 years" for "3 years;"
In (2), substitute "60 days" for "30 days;" and
In (4), substitute "3 years" for "1 year."

Hitherto the time allowed is 12 years. Now we have cut it down to 3 years. It may cause hardship to parties. In civil cases, a suit based upon a registered document gives six years' time.

PRESIDENT.—Is this amendment seconded?

MR. C. SRINIVASIENGAR.—I doubt whether the three years' limit applies to disputes in Civil Courts under the amendment passed the other day by Government. Anyhow, the amendment of which notice is given by me, *viz.*, the addition at the end of item (1) of the words "except land wrongfully taken possession of or wrongfully withheld" was only a consequential amendment and I beg to withdraw it.

MR. B. NAGAPPA.—I beg to withdraw my amendment also.

MR. M. C. RANGIENGAR.—I think it follows as a direct consequence of the omission of the clause as to reviews, that the provision made in the Schedule as to limitation in such cases should also be omitted.

PRESIDENT.—The article may be allowed to remain as it is contemplated to allow review petitions being filed. There will be the advantage of knowing indirectly that review petitions are allowed as a period of limitation is provided for them here.

The retention of the article was approved, and Mr. Srinivasiengar's amendment to insert the letter "B" after the heading "Schedule" was agreed to.

SCHEDULE : COLUMN 1, No. 2.

MR. T. ANANDA RAO.—Sir, we have adopted the new clause 11A providing for decisions by Amildars and Deputy Amildars of complaint of non-payment of miras to totis, talaris and niragantis. The reasons which have induced us to adopt a short time limit for lodging such complaints are also reasons why a short time limit should be prescribed for appeals against such decisions. Ten days are considered sufficient. The necessary provision is proposed to be made by two amendments as follows:—

1. In column (1) of item No. 2 of the Schedule, after the words "Assistant Commissioner" insert the following words, *viz.*, "except an appeal from the decision of an Amildar or a Deputy Amildar under Section 11A."

2. After the said item No. 2, insert the following words, *viz*:—

In column (1) "Appeal to the Deputy Commissioner or Assistant Commissioner from a decision passed by an Amildar or a Deputy Amildar under Section 11A."

In Column (2) "Ten days."

In Column (3) "The date of the decision."

Of course, the number 11A will be altered when the several clauses of the bill are re-numbered.

MR. B. NAGAPPA.—The time proposed, *viz.*, "ten days" is too short.

MR. RANGASWAMI IYENGAR.—I think article 2 is sufficient to cover the whole.

MR. T. ANANDA RAO.—Then I beg to withdraw the amendment.

The amendment was withdrawn.

CLAUSE 1, SUB-CLAUSES (2) AND (3).

Mr. C. Srinivasiengar having suggested that the words "in like manner" may be inserted after "may" in the last but one line of sub-clause (2) of clause 1, and the words "in the official Gazette" after "Government" in the last line of sub-clause (3), the Council resolved to adopt the same.

MR. T. ANANDA RAO.—Sir, the amendments proposed by the Select Committee and also other amendments proposed here before the Council having been disposed of, it now devolves on me to move under Rule 50 of the Rules of business that the bill as amended be taken up and passed at a subsequent meeting. In doing so, I feel it my duty to point out to the Council, that in adopting yesterday the third of the three alternative redrafts which Mr. Srinivasiengar proposed in respect of clause 5 of the bill, the Council have acted somewhat *ultra vires*. I advance this opinion with considerable diffidence because I know I am in a small minority in this matter. But I feel it my duty to point it out all the same.

The amendment as adopted assumes that the service inam lands of the offices of patel and shanbhog are enfranchised to a degree so that they could under existing rules not only be inherited but also be partitioned or transferred among the members of a hakdar's family. I doubt that the existing rules allow of this. The Potgi settlement might condone such cases which may have occurred in the remote past. But it is a totally different thing to permit such in the present and in the future. Injunctions in regard to the emoluments of office are as old as the order of 1835 which have, as occasion offered, been repeated and acted upon. The normal status of a shanbhog's or a patel's family is that of an undivided family, and one result of the restrictions imposed on the tenure of the service lands has been that they have for the most part been dealt with *en bloc* in family arrangements as if they had been constituted into what in the Malnad used to be called a *warg*. The Survey

Department divided the holding into survey numbers and thus introduced a facility for relinquishment of portions of the inam holding. To introduce now a facility for partition would be to introduce a further disintegrating influence; for, under the rules relating to minimum areas, the service inam lands would be parcelled out into small patches so low down as four acres in the case of dry crop land, one acre in the case of wet crop land, and half an acre in the case of garden land. We shall thus be losing the advantage of having large landholders among the hakdar families. When this advantage is lost, enfranchisement of the service inam lands would become inevitable and necessary. I do not mean to say that enfranchisement is undesirable. That is a question upon which I wish to have an open mind. That certainly is a measure which cannot be adopted without a full investigation and full information of local conditions and requirements. If any Hon'ble Member considers it to be a most desirable measure, let him bring it forward as such, clearly and explicitly. We shall then know where we are and what we are about. But what I feel it my duty to object to is the introduction of an element by a side-wind which must force our hands further to a measure of enfranchisement. As to this measure of enfranchisement, the fact is as I have told you that high authorities have flinched from it whenever it was proposed to them. If I am told that by the imposition of the full survey assessment on a service inam land, it has practically been enfranchised, my answer is that the imposition of full survey assessment is one of the incidents of enfranchisement but does not denote or amount to enfranchisement. The Dewan President has been kind enough, as announced the other day, to order some papers to be printed and issued as selections from the records of the Mysore Government. When you examine this and other sources of information, you will find that enfranchisement has never been contemplated in the settlement of these service inam lands effected under the Potgi Rules. If the settlement has been effected, and yet the authorities have shrunk from calling it enfranchisement, it is easy to denounce the position as illogical or anomalous, but it is better to endeavour to reconcile the apparent conflict of ideas and to find out what construction is right and good. There is a sentiment which attaches to these service inam lands adverse to enfranchisement, because cases have existed in which the land-holder would sooner continue to pay a jodi which is higher than the survey assessment than relinquish the tenure and convert it into ordinary raiyatwari by paying the survey assessment. This sentiment deserves to be respected and fostered. In short, inasmuch as a measure of enfranchisement is not before the Council we are not in order in conferring any of the incidents of enfranchisement on service land as has been done by adopting yesterday the third of the alternatives proposed by Mr. C. Srinivasiengar. The second of his alternatives, by being in conformity with the existing Potgi Rule 34, is more appropriate and worthy of adoption by this Council. Or better still, the Potgi Rule 34 itself could be adopted *verbatim* as that is the existing rule.

With these remarks, I move that the bill as amended be taken up at a subsequent meeting of the Council.

MR. SRINIVASIENGAR.—As the section was passed yesterday, it rests with Government by rules to say what lands are assigned as emoluments to the holders of any particular office and what not. In the case of lands not so assigned, alienations will be permitted by law as passed yesterday. It is for Government either to assign or not to assign lands as emoluments to the holders. I am unable to see anything *ultra vires* in this.

MR. ANANDA RAO.—That is a truism and in a way begging the question. You might as well say that all lands paying kandayam may be partitioned and that such lands may be allowed all the incidents of private property.

PRESIDENT.—These are only casual remarks made by the Councillor, but not as representing Government. This is not the stage at which any remarks may be made about amendments which have been passed.

MR. NAGAPPA.—It is only at the stage of the passing of the bill that we may make remarks generally upon the bill. We would like to make some remarks then.

PRESIDENT.—This is not the stage at which all shades of opinion may be allowed to be expressed, and especially whether the provisions are *ultra vires* or not. As you may be aware, this bill has to pass a further stage before it is finally passed; and there are stages at which it is open to the Senior Councillor as a member of Government to bring to notice any fact bearing upon the question, whether what the

Council has adopted is *ultra vires* or inconsistent with the existing law. But, as a member of this Legislative Council, he has simply at the conclusion of the proceedings to say in the words of the rules that have been passed for the conduct of the business of the Council that the bill will be taken up at a later stage and passed. There are other stages through which the bill has to pass before it is finally passed. At any of those stages, the Councillor may bring to the notice of the Government any question bearing upon the *ultra vires* aspect of the legislation.

The Council agreed to take up the bill at a subsequent meeting.

The Police Bill.

MR. K. P. PUTTANNA CHETTY.—Sir, I beg to present the report of the Select Committee appointed for the consideration of the Police Bill and the bill as amended by them and to move that the bill be taken up for consideration by this Council.

MR. T. ANANDA RAO.—I beg to second the motion.

PRESIDENT.—Now we will proceed with the different amendments brought forward.

CLAUSE 3, SUB-CLAUSE 1 (i).

MR. K. P. PUTTANNA CHETTY.—I beg to propose that for the words "Village Offices Regulation" occurring herein, the words "any law or rules in force relating to village offices" be substituted.

MR. C. SRINIVASIENGAR.—I beg to second the proposition.

The Council agreed to this.

MR. C. SRINIVASIENGAR.—I have got a small amendment here. Who is a toti or talari as distinguished from village watchman? Are not totis and talaris village watchmen? I would therefore propose to omit the words "totis, talaris."

MR. RANGASWAMI IYENGAR.—They may have other duties and the word 'talari' does not mean merely a watchman.

MR. SRINIVASIENGAR.—Does not the word 'watchman' include a talari?

MR. RANGASWAMI IYENGAR.—To act as watchman is one of the duties of the toti and the talari.

MR. SRINIVASIENGAR.—All the same, they are watchmen. Is not a toti a watchman?

PRESIDENT.—He may or may not be.

MR. RANGASWAMI IYENGAR.—He may have other duties in connection with the Police Regulation independently of the duties of the village watchman. Therefore a toti is spoken of as a village watchman or in any other capacity.

MR. SRINIVASIENGAR.—I beg to withdraw the amendment.

Mr. Srinivasiengar withdrew his amendment.

CLAUSE 4.

MR. SRINIVASIENGAR.—Sir, I beg to propose that after the word 'Jamadar' in sub-clause (*c*) be added either 'except where a different intention appears from the subject or context' or 'except where otherwise expressly mentioned.'

MR. PUTTANNA CHETTY.—This is already provided for in the beginning of the clause.

MR. SRINIVASIENGAR.—When you go to clauses 8, 9 and 10, you will see the reason for this amendment. There are amendments proposed to be moved by Government and when you go to those clauses I will try and make myself understood.

This was reserved for consideration.

CLAUSE 4, SUB-CLAUSE (1).

MR. PUTTANNA CHETTY.—Sir, I beg to propose that the words "or vehicle" be added after the word "place" in the 7th and 9th lines of this definition and the word "or" occurring before the word "place" in both these lines be omitted.

MR. B. NAGAPPA.—I second it.

The amendment was adopted.

CLAUSES 8 AND 9.

MR. PUTTANNA CHETTY.—Sir, I beg to move that the following be substituted for clauses 8 and 9:—

"8. The appointment of Inspectors of such grades as Government may from time to time prescribe shall be made by Government, and the dismissal of Inspectors of all grades shall vest in Government."

"9. (1) The appointment of Inspectors of grades other than those prescribed under Section 8 and of Sub-Inspectors shall vest in the Inspector-General.

(2) Police officers of the rank of Jamadar shall be appointed in each district by the Deputy Commissioner.

(3) Police officers below the rank of Jamadar shall be appointed in each district by the District Superintendent.

(4) The appointment of all officers of any Provincial Reserve Police force, except Inspector of the grades prescribed under Section 8, shall be made by the Inspector-General.

Provided that all appointments made under this section shall be subject to such rules as the Government may from time to time prescribe."

I beg to explain that the sections as now proposed are in accordance with the orders in force; that is to say, all appointments of grades below Rs. 100 are made by the Inspector-General of Police and those above that sum come up before Government for sanction. This is the present rule and it is proposed to revise these sections accordingly.

MR. ANANDA RAO.—I beg to second the amendment.

The Council resolved to adopt the above amendment.

MR. SRINIVASIENGAR.—I withdraw the amendment I suggested in clause 4, which was reserved for consideration after the discussion of clauses 8, 9 and 10.

CLAUSE 10, SUB-CLAUSE (1).

Proposed by Mr. Puttanna Chetty and seconded by Mr. Ananda Rao, that the words "Every Inspector and Sub-Inspector" be substituted for "An Inspector" in the first line and the words "or Sub-Inspector, as the case may be" be inserted after the word "Inspector" in the 6th line.

This was agreed to by the Council.

CLAUSE 10, SUB-CLAUSE (2).

MR. PUTTANNA CHETTY.—I beg to propose that for the word "Inspector" occurring in this sub-clause, the word "Sub-Inspector" be substituted and the following added at the end:

"And every such Police Officer enrolled in any Provincial Reserve Police Force shall receive a certificate in Form II of Schedule B from the Inspector-General."

We have provided that all appointments below the grade of Sub-Inspectors shall be made by Deputy Commissioners and Superintendents of Police and certificates of appointment granted by Deputy Commissioners. But in the case of Reserve Police, these shall be issued by the Inspector-General of Police, because they are directly under his orders.

MR. B. NAGAPPA.—I beg to second the amendment.

MR. SYED AMIR HASSAN.—What objection is there to Superintendents issuing certificates?

MR. PUTTANNA CHETTY.—Though the appointment may be made by the Superintendent, the sannad proceeds from the Deputy Commissioner. The Deputy Commissioner is the head of the District and there is greater prestige in the certificate being furnished by him than by the Superintendent.

MR. SRINIVASIENGAR.—The signature of the head of the District will invest the certificate with a certain degree of respect.

MR. SYED AMIR HASSAN.—In some cases I know Deputy Commissioners have refused to sign certificates, because the appointments were made by Superintendents.

MR. PUTTANNA CHETTY.—If there is a difference between the Deputy Commissioner and the Superintendent, it may be brought to the notice of the Inspector-General.

MR. NARASIMMIYENGAR.—The Superintendent sometimes may sign for the Deputy Commissioner and the difficulty may be got over that way.

The amendment proposed was agreed to by the Council.

CLAUSE 10, SUB-CLAUSE (3).

MR. SRINIVASIENGAR.—I beg to move that the word "appointment" be substituted for "enrolment" in sub-clause (3), and the words "to any officer empowered to receive the same" occurring in the last line omitted, and also that this sub-clause be incorporated in sub-clause (2), as it is not necessary that it should remain as an independent sub-clause. The word used in the original bill was "appointment," and I do not understand why the Select Committee substituted the word "enrolment" for it.

MR. K. P. PUTTANNA CHETTY.—"Enrolment" means first entry into the Police Department.

Mr. SRINIVASIENGAR.—When a man is promoted to the Jamadar's grade, does he not get any certificate?

MR. K. P. PUTTANNA CHETTY.—He does not get any. The certificate on the first enrolment holds good. He does not get a new certificate on each promotion but only on his first enrolment as a Constable, Duffedar or Jamadar and again on his promotion to the grade of Sub-Inspector, when he gets it from the Inspector-General.

MR. SRINIVASIENGAR.—There is no mention of the word "enrolment" in Schedule B, Form II.

MR. RANGASWAMI IYENGAR.—I don't think we need be so particular about the words "enrolment" and "appointment." Perhaps the wording is borrowed from the Act of 1861.

MR. PUTTANNA CHETTY.—"Enrolment" includes appointment.

After further discussion it was resolved by the Council to insert the word "such" between the words "every" and "certificate" in the first line, to omit the words "of enrolment" after the word "certificate" in that line and also the words "to any officer empowered to receive the same" occurring at the end of the sub-clause and to incorporate this sub-clause in sub-clause (2).

SCHEDULE B, FORMS I & II.

Proposed by Mr. K. P. Puttanna Chetty and seconded by Mr. B. Nagappa that "Inspector" / "Sub-Inspector" be substituted for "Inspector" in both the places in which it occurs in Schedule B, Form I and that "Sub-Inspector" be substituted for "Inspector" in Schedule B, Form II.

This was agreed to by the Council.

MR. SRINIVASIENGAR.—Sir, I beg to propose that either the words "length of service, if any" be added in Form II or the same be omitted in Form I.

MR. PUTTANNA CHETTY.—This question was discussed in the Select Committee and it was thought that when an Inspector or Sub-Inspector is appointed, it would be better to specify his service, to serve as a sort of check upon the officer making the appointment. Such a provision exists in the Bombay Act.

MR. SRINIVASIENGAR.—Suppose a Judicial Gumasta is appointed a Jamadar. Am I to understand that there is no necessity to specify the length of his service?

MR. RANGASWAMI IYENGAR.—This means length of service in the Police Department.

MR. SRINIVASIENGAR.—I am not particular about the amendment. I withdraw it.

The amendment was withdrawn.

CLAUSE 12.

MR. SRINIVASIENGAR.—Sir, I beg to propose that the last 3 lines of this clause be omitted. In clause 24 it is said that "subject to the orders of Government, the Inspector-General may from time to time make rules or orders." It means that subject to the orders of Government he is authorized to make rules or orders. Why is the same provision repeated in this clause?

MR. PUTTANNA CHETTY.—In this clause reference is made in a general way to the powers of the Inspector-General of Police.

MR. SRINIVASIENGAR.—Why is it specially mentioned here that subject to the approval of Government, the Inspector-General may make rules and orders under the provisions of Sections 24 and 25? Section 25 does not refer to orders but to inspections and requisitions for returns, etc.

MR. PUTTANNA CHETTY.—We have taken these provisions bodily from the Bombay Act. It is necessary to say what powers the Inspector-General has got over the department as a whole and they have been specified here.

MR. RANGASWAMI IYENGAR.—When it is a question of making general requisitions, it means framing rules for the submission of reports, returns, etc.

The amendment proposed was then withdrawn by Mr. Srinivasiengar.

CLAUSE 13.

Proposed by Mr. K. P. Puttanna Chetty and seconded by Mr. B. Nagappa that the words "prescribed and" be inserted after the word "be" in the last line.

This was agreed to by the Council.

CLAUSE 15, SUB-CLAUSE (1).

MR. SRINIVASIENGAR.—Sir, I beg to propose that the words "except where otherwise provided" be inserted after "the District Superintendent may" in this sub-clause.

MR. PUTTANNA CHETTY.—I would support Mr. Srinivasiengar's amendment. If the expression "except where otherwise provided" be not inserted, the meaning would be too general. The proposed amendment is necessary.

PRESIDENT.—What is the necessity for it? There is a provision governing the whole.

MR. SRINIVASIENGAR. The District Superintendent is empowered to exercise the powers of the Deputy Commissioner subject to rules and orders. The Deputy Commissioner has got certain powers of appointment and punishment. The District Superintendent will exercise them, unless he is restricted from so doing by rules and orders to be framed. The Code gives certain powers to the Deputy Commissioner and certain powers to the District Superintendent. While it is expressly stated in the Code itself that each one has certain powers, why should we give all the powers of the Deputy Commissioner to the District Superintendent and why should it not be said that he will exercise them subject to reservations? Our rules have to say that the District Superintendent shall not exercise such and such functions. A strict interpretation of this section would be that he carries all the powers of the Deputy Commissioner, while in fact he does not do so.

MR. RANGASWAMI IYENGAR. The better way to put Mr. Srinivasiengar's objection is that there is inconsistency in the provisions. In the Code only certain powers are given to the District Superintendent, but in this section all the powers of the Deputy Commissioner are given to him. The object of this section was that the Deputy Commissioner should be able to delegate his powers to the Superintendent, when he himself is not able to direct personal attention to certain matters, for instance, nomination of Jamadars, etc. This seems to be the object. There may be other similar provisions, such as calling Inspectors to account and so on. For the proper discharge of current duties, this section was introduced.

The proposal to insert the words "except where otherwise provided" after the words "the District Superintendent may," was withdrawn by Mr. Srinivasiengar.

Proposed by Mr. Srinivasiengar and seconded by Mr. Puttanna Chetty that the word "and" be inserted after the word "law" in para (*e*) and that the words "questions of routine" be substituted for "all other matters of a routine nature" in para (*f*).

This was agreed to by the Council.

CLAUSE 15, SUB-CLAUSE (2).

MR. SYED AMIR HASSAN. I beg to withdraw the suggestion standing against my name in the statement of business.

MR. SRINIVASIENGAR. Is the position of the Amildar in the Police Department affected by the Regulation?

MR. RANGASWAMI IYENGAR.—Mr. Carr represented strongly that the Inspector should be recognized as the head of the Taluk Police in preference to the Amildar. We effected a compromise by saying that the Inspector is directly responsible for the Taluk Police and that the Amildar will be his superior officer, to whom the former is responsible.

MR. PUTTANNA CHETTY.—In fact, the Inspector, according to this Regulation, will have greater powers over the Taluk Police.

MR. RANGASWAMI IYENGAR.—Under the existing conditions, the Amildar is *de facto* the head of the Taluk Police, whereas under the Regulation we recognize the Inspector as the responsible head. The Amildar will have general control over the Inspector. In fact, we relieve the Amildar from responsibilities in small matters and give him powers of control over the Police in his Taluk. The main difference is this. In the existing state of things, the Inspector would not be more than a Taluk Sheristadar. Hereafter he will be something more. He will also be blamed as an independent officer for any shortcomings, unless he can show that the Amildar overruled him. We only relieve the Amildar from certain unnecessary trouble.

MR. PUTTANNA CHETTY.—The Regulation strengthens the position of the Amildar and makes the Inspector more responsible than he was before. First of all the Inspector will be held responsible for police work in the Taluk and then the Amildar over him. This is what Mr. Carr did not want. But the Committee overruled him.

CLAUSE 17, SUB-CLAUSE (1).

Proposed by Mr. K. P. Puttanna Chetty and seconded by Mr. C. Srinivasiengar that this sub-clause do stand as in the original bill and that the indefinite articles "an" and "a" be inserted before "officer" and "Police Station," respectively, in the twelfth line of this clause.

This was agreed to by the Council.

CLAUSE 17, SUB-CLAUSE (2).

MR. SRINIVASIENGAR.—Sir, I beg to propose that the words "of office" be omitted in the last line or be replaced by the words "of appointment." There is no such thing as a certificate of office; there is only the certificate of appointment. I think "a certificate" will do.

MR. RANGASWAMI IYENGAR.—I think "of office" may be omitted.

PRESIDENT.—What harm is there in retaining them?

MR. SRINIVASIENGAR.—There is no harm, but we will be consistent in the wording if we use the words "certificate of appointment." I am not particular about the amendment and I withdraw it.

The amendment was withdrawn.

CLAUSE 18, SUB-CLAUSE (2) & CLAUSE 19, SUB-CLAUSE (2).

MR. SRINIVASIENGAR.—Sir, I beg to move that provision may be made in clause 18 (2) for rates and payment as in clause 19 (2), and in 19 (2) for the subjection of the additional police to the police authorities as in 18 (2). In both cases the employment of additional police is intended, but certain provisions occurring in the one are omitted in the other.

MR. RANGASWAMI IYENGAR.—As regards the former, it seems to me that no special provision need be made, as the cost will have to be paid by the individual whatever it may come to. As regards the latter, it seems to me to be desirable to insert a provision similar to that contained in 18 (2), as, in the absence thereof, it might be taken to mean that the police employed are under the exclusive control of the man in charge of the work.

PRESIDENT.—In the case of a private individual, there is danger of the additional police employed being kept under his control and so it seems to be expressly provided that the police shall be subject to the orders of the police authorities.

MR. RANGASWAMI IYENGAR.—Perhaps the words "may depute" occurring in clause 19 (1) convey the idea of the retention of control by the police authorities.

MR. PUTTANNA CHETTY.—There is no harm in repeating the words.

MR. NAGAPPA.—It seems unnecessary.

MR. RANGASWAMI IYENGAR.—To make the wording uniform, the words "and shall be subject to the orders of the police authorities" may be added at the end of clause 19 (2).

This was approved by the Council.

The other amendment in respect of clause 18 (2) was withdrawn by Mr. Srinivasiengar.

CLAUSE 20.

MR. SRINIVASIENGAR.—Sir, I beg to propose that the words "and the sum so ascertained may be levied as if it were an arrear of land revenue" be omitted.

MR. PUTTANNA CHETTY.—This provision may be brought under clause 23.

PRESIDENT.—I don't see any harm in keeping it.

MR. SRINIVASIENGAR.—I withdraw the amendment.

The amendment was withdrawn.

CLAUSE 22, SUB-CLAUSE (1).

MR. PUTTANNA CHETTY.—Sir, I beg to move that the words "three months" occurring herein be replaced by the words "one month" which was the time fixed in the original bill. In making this motion I beg to state that "three months" is rather too long a time to allow for applications of this kind. When the summary jurisdiction of the Deputy Commissioner is invoked, it is better that action is taken as early as possible before there is time for concoction. In the Bombay Act, only one month is prescribed.

MR. NARAYANA RAO.—I second the amendment.

The amendment was approved.

CLAUSE 22, SUB-CLAUSE (2) (*c*).

MR. SRINIVASIENGAR.—Sir, I beg to move that for "loss, or damage, or death, or grievous hurt" the words "death, or grievous hurt, or loss, or damage" may be read. There is no object in changing the order of words.

This was approved by the Council.

CLAUSE 22, SUB-CLAUSE (5).

MR. SRINIVASIENGAR.—Sir, I beg to move that for the words "declaration, assessment and order" occurring herein, the words "determination, declaration, recovery and award or appointment" be substituted; or at any rate, the word "determination" be inserted before "declaration" and the words "sub-section (1)" in the third line be substituted by "sub-section (2)."

MR. PUTTANNA CHETTY.—This section is adopted from the Bombay Act of 1890.

PRESIDENT.—The Bombay Act has been in operation for 18 years and the Act has not been amended there. I think we had better leave the wording alone.

MR. SRINIVASIENGAR. I withdraw my amendment then.

The amendment for the substitution of "sub-section (2)" for "sub-section (1)" was adopted by the Council, the other amendment being withdrawn by Mr. Srinivasiengar.

CLAUSE 22, SUB-CLAUSE (6).

MR. SRINIVASIENGAR.—Sir, I beg to move that the words "loss or" occurring herein be omitted. This also may have been taken from the Bombay Act. I don't see the object in singling out "loss." Anybody that is affected either by death, or grievous hurt or loss of or damage to property is a man that is injured and can claim compensation for the injury, which is sufficiently comprehensive to include all these [*vide* sub-clause (1)]. The word "loss" is unnecessary and misleading.

MR. NAGAPPA.—"Injury" may mean bodily injury or any violation of right.

MR. SRINIVASIENGAR.—How can it in the face of sub-clause (1)? However, I withdraw the amendment proposed.

The proposed amendment was withdrawn.

MR. PUTTANNA CHETTY.—Sir, I beg to move that the word "awarded" be substituted for the words "granted and received."

MR. ANANDA RAO.—I second the amendment.

MR. RANGIENGAR.—If money has been received, then the person who has sustained injury cannot go to Court. This question came before the previous Police Committee and they were of opinion that he should have received the compensation, in which case only he should be prevented from going to Court.

The amendment was put to the Council and was carried.

CLAUSE 23.

MR. SRINIVASIENGAR.—Clause 20 remaining as it was, I withdraw the proposed amendment in clause 23, *viz.*, substitution of the word "three" for "two," of which notice had been given by me.

The Council adjourned to the next day (26th March 1908).

THURSDAY, 26TH MARCH 1908.

The Council met at 3 P.M.

PRESENT—All except Mr. M. Kantharaj Urs.

CLAUSE 25.

Proposed by Mr. K. P. Puttanna Chetty and seconded by Mr. Nagappa that the words "from the District Superintendent and other officers subordinate to him and from the Deputy Commissioner" be substituted for the words "from the Deputy Commissioner and other officers subordinate to him."

This was agreed to by the Council.

CLAUSE 26, SUB-CLAUSE (1).

MR. C. SRINIVASIENGAR.—Sir, I beg to propose that the words "below the grade of Assistant Superintendent" occurring in this sub-clause be omitted, and in the last line but two the word "reduction" be inserted after the word "suspension."

MR. K. P. PUTTANNA CHETTY.—I beg to second the first proposition. The words "below the grade of Assistant Superintendent" are quite unnecessary.

MR. C. SRINIVASIENGAR.—Under sub-clause (3), the Inspector-General has authority to punish certain officers and the Deputy Commissioner, certain other officers. Sub-clause (3) is referred to in sub-clause (1). The words "below the grade of Assistant Superintendent" would not be correct, unless applied to the powers of the Inspector-General of Police only.

MR. K. P. PUTTANNA CHETTY.—The wording leaves much to be desired. We have copied it from the Bombay Act.

MR. A. RANGASWAMI IYENGAR.—The words would mean police officers coming under sub-clause (3) and would include only those officers who are liable to be punished by the different higher officers as therein stated. Instead of omitting the words as suggested, the whole of sub-clause (1) may be omitted.

MR. K. P. PUTTANNA CHETTY.—But the provision made in the sub-clause is a general one and does not occur elsewhere.

MR. A. RANGASWAMI IYENGAR.—If so, I think the words are necessary and should be retained. They only indicate the officers who may be punished.

PRESIDENT.—The provisions in this sub-clause refer only to officers below the grade of Assistant Superintendent.

MR. A. RANGASWAMI IYENGAR.—These words "officers below the grade of Assistant Superintendent" include all the officers punishable under sub-clause (3).

MR. V. N. NARASIMMIYENGAR.—It is immaterial whether we keep these words or not.

PRESIDENT.—Mr. Rangaswami Iyengar says that the sub-clause merely lays down a general proposition that it is only this class of officers that shall be liable to punishment and not others, and that sub-clause (3) takes one by one separately and indicates the authority who shall punish the different classes of officers.

MR. C. SRINIVASIENGAR.—Sub-clause (1) begins with a reference to sub-clause (3). The officers entitled to punish are three. These are clubbed together and one common expression is used. It is only a verbal change that I have proposed. I leave it to the Council to accept or drop it.

PRESIDENT.—What is said is that only the class of officers below the grade of Assistant Superintendent shall be liable to be punished. Then sub-clause (3) takes the different classes of officers below that grade and says who shall punish whom. So there is no harm in retaining the words.

Mr. Srinivasiengar accordingly withdrew the amendment proposed as regards the omission of the words "below the grade of Assistant Superintendent."

PRESIDENT. As regards the insertion of the word "reduction" after the word "suspension,' there may be some meaning in the omission of that word in the Bombay Act. Reduction involves a permanent decrease of pay. The sub-clause contemplates fining a month's pay in cases where suspension or dismissal is not required. If reduction is thought of, no fine is necessary. That is perhaps why it is omitted.

MR. C. SRINIVASIENGAR.—This is a verbal amendment and I would withdraw it under the circumstances.

This was withdrawn.

CLAUSE 26, SUB-CLAUSE (3).

MR. K. P. PUTTANNA CHETTY.—I beg to propose that the words "subject to the provisions of Section 8" be inserted at the beginning of this sub-clause, and the words "of and" after "him" in the 7th line and the word "sub" before "Inspector" in the 8th line.

MR. C. SRINIVASIENGAR. I second this.

MR. A. RANGASWAMI IYENGAR.—I think the section may stand as it is, because it is a broad one which will apply to all cases. In the construction of one section of an enactment, the restrictions laid down in other sections would apply and no express reservation seems to be necessary.

MR. C. SRINIVASIENGAR.—It seems necessary to refer to Section 8 in this sub-section as the Inspector-General cannot dismiss Inspectors and dismissal is also one kind of punishment.

MR. A. RANGASWAMI IYENGAR.—In considering any one section, it must be considered consistently with the other provisions of the Code. It is an ordinary principle of interpretation.

MR. K. P. PUTTANNA CHETTY.—We want to make it clear what the powers of the Inspector-General are.

MR. C. SRINIVASIENGAR. I have also given notice of an amendment in respect of this sub-clause, but it is not very important and I may be allowed to withdraw it; but the other one proposed by Mr. K. P. Puttanna Chetty and seconded by me may be passed. The other alterations are consequential.

PRESIDENT.—We may make the clause clumsy by inserting too many conditions. So if the Council agrees, we may adopt Mr. Puttanna Chetty's amendment and make the matter clear once for all.

MR. A. RANGASWAMI IYENGAR.—Yes, it certainly makes the matter clearer.

The amendments proposed by Mr. Puttanna Chetty were adopted.

CLAUSE 27, SUB-CLAUSE (1).

MR. K. P. PUTTANNA CHETTY.—Sir, I beg to propose that the original wording of sub-clause (1) be restored as the amendment made by the Select Committee does not seem to have improved it.

MR. T. ANANDA RAO.—The words "under his signature" should have come after "therefor."

MR. C. SRINIVASIENGAR.—"Together with a note of the enquiry made under his signature" is perhaps what is meant.

MR. A. RANGASWAMI IYENGAR.—The order is more important than the note of enquiry.

MR. C. SRINIVASIENGAR.—The sub-clause is clumsily worded. The Select Committee tried to improve upon it. According to the original "with" has to be taken as understood before "a note;" according to the Select Committee's alteration, "shall be" has to be taken as understood before "made."

MR. A. RANGASWAMI IYENGAR.—"Signed" applies to the record. I think the original was better. "And signed by him" does not fit in.

MR. C. SRINIVASIENGAR.—It can come in if the words "shall be" are read before "made." If the whole is to be signed including the order, the original is better.

MR. H. J. BHABHA.—There are many superfluous words; "in writing" may be omitted.

PRESIDENT.—What do you understand the procedure to be? Why should we not re-cast the whole section?

MR. A. RANGASWAMI IYENGAR.—It seems that in this section three ideas are intended to be expressed: (1) that punishment has to be given only after enquiry; (2) the substance of the enquiry, the order and the reasons therefor have to be recorded and (3) these have to be signed.

MR. T. ANANDA RAO.—Why not say 'and sign the same' instead of 'and signed by him'?

MR. K. P. PUTTANNA CHETTY.—We may let the whole thing remain as it stood originally.

PRESIDENT.—Then we will adopt Mr. Puttanna Chetty's amendment.

The Council agreed to adopt the same.

CLAUSE 27, SUB-CLAUSE (2).

MR. K. P. PUTTANNA CHETTY.—I beg to propose that for the words "the order" occurring in line 3 of this sub-clause, the words "all orders" be substituted.

MR. C. SRINIVASIENGAR.—I beg to second this.

PRESIDENT.—What harm is there if the expression 'the order' is allowed to stand?

MR. H. J. BHABHA.—I think it is only to make it uniform that the amendment has been proposed.

MR. A. RANGASWAMI IYENGAR.—As the Deputy Commissioner and the District Superintendent of Police are supposed to exercise co-ordinate powers, there may arise a doubt as to whether an appeal from the order of a District Superintendent lies to the Deputy Commissioner or not. This section makes that point clear. There is no harm in keeping the words as they are.

MR. C. SRINIVASIENGAR.—As the expression stands, does it mean that a 'second appeal' lies to the Inspector-General? It looks as if it were an appeal from an appellate order but the idea is that an appeal lies from every order passed by a Deputy Commissioner.

The amendment was put to the Council and was carried.

CLAUSE 28.

Proposed by MR. PUTTANNA CHETTY and seconded by MR. SRINIVASIENGAR that the word "any" in line 2 of sub-clause (1) be substituted by the word "the" and the words "his immediate superior" at the end of sub-clause (2) by the words "the Inspector-General or the Deputy Commissioner, as the case may be."

This was approved by the Council.

CLAUSE 30.

The amendments to this clause of which notice had been given by Mr. Srinivasiengar were withdrawn by him.

CLAUSE 32, SUB-CLAUSE (1).

The proposal to omit the words "or of office" occurring in this sub-clause was withdrawn by Mr. Srinivasiengar.

CLAUSE 33, SUB-CLAUSE (3).

MR. SYED AMIR HASSAN.—I beg to propose that the words "within seven days" be inserted between the words "duty" and "on" in this sub-clause. According to

this sub-clause, the absentee will be liable to be prosecuted the very next day. It seems desirable to allow him some time after the expiry of the leave to report himself for duty and provide for his prosecution only if he should fail to do so within that time.

MR. C. SRINIVASIENGAR.—In fact we intend this for the benefit of the man. No time is fixed: he may furnish his explanation even after seven days.

MR. A. RANGASWAMI IYENGAR.—The object of the proposed amendment is that officers must wait for a certain time before taking action. If the man does not come immediately after the expiry of the leave, the officer is likely to presume that he has been absent without cause. The amendment proposed will prevent him from taking immediate action.

MR. SYED AMIR HASSAN. The limit I have proposed is allowed by the existing rules.

MR. A. RANGASWAMI IYENGAR. It is a useful one. I would second it. Action is deferred for the first seven days.

MR. K. P. PUTTANNA CHETTY. Sufficient time is given in the rules.

MR. A. RANGASWAMI IYENGAR. If so, the amendment would be unnecessary.

The amendment proposed was withdrawn by Mr. Syed Amir Hassan.

Mr. Syed Amir Hassan also withdrew the amendment proposed to be moved by him, that in clauses 33, 34, 57 and 61, the words "of either description" be inserted between the words "imprisonment" and "for."

CLAUSE 34.

The proposal to omit the words "or of office" of which notice had been given by Mr. Srinivasiengar was withdrawn by him.

OLD CLAUSE 35.

MR. K. P. PUTTANNA CHETTY. Sir, I beg to propose that this clause which was expunged by the Select Committee be restored in the following terms of section 38 of Bombay Act IV of 1890:

"Government, whenever it shall seem necessary, may, by notification make an order to such effect as any order which, if made by a Magistrate under section 144 of the Code of Criminal Procedure, could be continued in force by Government under the enactment aforesaid."

This is an exceptional provision and we can imagine circumstances in which Government may have to issue such an order without reference to the Inspector-General of Police or the District Magistrate. So it would be very desirable to retain this provision as in the Bombay Act.

MR. C. SRINIVASIENGAR. I beg to second the amendment.

MR. B. NAGAPPA. I beg to oppose the amendment for manifold reasons. It has the effect of investing the authorities with arbitrary powers to be exercised without giving the party affected any opportunity of showing that the proposed order was unjust, unreasonable and uncalled for. The Government may act upon the information or representation made by an interested person and it may pass the order without calling for any report from the local authorities who are the best judges to pronounce an opinion as to the disturbed condition of the local area and to the desirability of immediate preventive or other speedy remedy to be adopted. The effect of this amendment is to invest the Government with power to make any order in all cases other than those specially mentioned in section 144. This would set at naught the cardinal principle of securing to every person the enjoyment of his rights under the law. This, I submit, is an innovation likely to cause great harm to the public. The Select Committee appointed by the Council have wisely recommended the omission of this clause. I earnestly hope that this Council will duly consider the recommendation before voting on this amendment.

MR A. RANGASWAMI IYENGAR.—This provision which will apply to the passing of the order will also apply to the cancelling of the same. There is nothing to prevent one from petitioning to Government to cancel the order if it is hard. When Government is supposed to act under section 144, it is bound to take the representation.

MR. B. NAGAPPA.—Provision is made in the amendment only for Government passing such orders. I submit that this is an innovation.

MR. A. RANGASWAMI IYENGAR.—This is not a new provision. It is taken from the Bombay Code.

MR. M. C. RANGIENGAR.—I submit that Government cannot act under section 144. What they can do is, after the Magistrate passes the order in any case, they may extend the period of its operation. The procedure prescribed in the Criminal Procedure Code, is for the Magistrate to follow. It is not obligatory on Government to follow that procedure. Therefore if in the present Regulation, power is given to Government for passing an order upon its own initiative without waiting for a Magistrate holding an enquiry or passing an *ex parte* order, they will not be bound to follow the procedure laid down in section 144. Reference to section 144 of the Criminal Procedure Code in this Regulation is merely to the nature of the order that may be passed and not to the procedure that Government has to follow. As submitted to the Council by my learned friend, it is not necessary that Government should be invested with power to pass an order of this description upon its own initiative, as its own officers will be on the spot and will have cognisance of the matter which necessitates the passing of the order. If the local officers are of the same opinion as Government, then Government may direct a competent Magistrate to pass the necessary order. On the other hand where local officers are satisfied that there is no necessity for such an order, but Government considers that such an order should be passed, then Government has to exercise the power in a more formal manner than is proposed to be adopted. Here there is no restriction imposed upon the powers of Government. No enquiry is required to be made. Government may get some information from some individual and may pass an order thereon. It is open to the Magistrate to pass an *ex parte* order, and the party who is affected by the order has an opportunity of representing his grievance and it is not open to the Magistrate to decline to consider it. But it is not obligatory upon Government to hold any enquiry. I therefore beg to submit that the recommendations of the Select Committee may be adopted.

MR. S. NARAYANA RAO.—It seems to me that the provision in the Bombay Code is intended to meet extraordinary cases where Government is required to take action very promptly. If such an emergency arise, the provision would be very useful in the interests of the protection of life and property of the subjects. But the question for consideration would then be whether Government would misuse this power. I submit it would be simply entertaining a doubt as to the capacity of Government to use the power rightly. The question simply resolves itself into this, whether it is not safe at all to invest Government with such a power on the ground that at times it might be misused. Seeing that an emergency may arise when prompt action may be required to be taken, the clause may be retained.

MR. K. P. PUTTANNA CHETTY.—As explained by the last speaker, this extraordinary provision is intended to meet extraordinary emergencies, occasions when Government will have to act on its own initiative and without reference to local officers. It may be that the local officers, by not properly estimating the force of circumstances, or by perversity, may not take a proper view of the situation. In these circumstances, Government may be called upon to act in the interests of the public peace. I think such a provision is very necessary and I request the Council to consider this aspect of the case before they vote for or against it.

MR. A. RANGASWAMI IYENGAR.—The chief objection that is taken by my friends on the other side is that the safeguards which exist in the case of the District Magistrate or other Magistrate empowered to act under Section 144 of the Criminal Procedure Code do not exist in the case of Government. But I would request them to read clauses (2) and (5) of that section. The Magistrate taking action thereunder is competent to make an *ex parte* order, which will be in force for two months and such order Government is competent to extend without giving notice to or hearing parties. What is now proposed is that Government may pass such an *ex parte* order itself. So this is not any extraordinary power newly arrogated to Government. Further it will be seen that the cases in which Government will act are also extraordinary cases of danger to human life, safety, etc., so that, it is intended to meet only extreme cases of emergency.

MR. B. NAGAPPA.—A word in reply is necessary. Under clause (4) of Section 144, a Magistrate may rescind or cancel the order passed, if he is satisfied on hearing the parties or otherwise that there is no necessity for it. If it is not cancelled, Government may extend the order for a further period beyond two months for which it shall otherwise remain in force. So, before this power is exercised by Government, the parties will have had an opportunity of being heard and will have been heard by the Magistrate; whereas according to the amendment contemplated, Government may not hear the parties at all. If Government pass an *ex parte* order, no time limit is fixed for which such an order is to remain in force. Such being the case, an *ex parte* order of the kind contemplated by the proposed clause will work hardship.

MR. T. ANANDA RAO.—I would like to make one enquiry for my information. Suppose a Magistrate after holding an enquiry under Section 144 of the Criminal Procedure Code refuses to pass an order and the danger continues. What is the remedy then? Is there an appeal against his order? Or is there a revision? Government shall have to interfere here.

MR. B. NAGAPPA.—Then the District Magistrate must be incompetent. I cannot conceive of such a case occurring.

PRESIDENT.—Yes. If a case occurs either by the incompetency or the perversity of the Magistrate as observed by the Second Councillor, what is the remedy?

MR. C. SRINIVASIENGAR.—You say you can trust the District Magistrate. Why not credit Government with some common sense? Why should you distrust them?

MR. M. C. RANGIENGAR.—There is provision for an enquiry under the Criminal Procedure Code, which Government is not bound to make under the proposed amendment.

MR. C. SRINIVASIENGAR. What Government want is that they be empowered to pass in the first instance an order which, if passed by a Magistrate, they can continue. This is perfectly reasonable.

PRESIDENT. If we are erring at all, we are erring in good company. We are taking the provision from the British legislature. The very words we propose to introduce into our legislation are used in the Bombay Act.

MR. B. NAGAPPA.—The section in the Bombay Act was passed in 1898. There was then some sedition in Bombay and there was therefore some cause for the Government to pass such a measure. We in Mysore are perfectly loyal and law-abiding people and there is no reason for apprehending a similar state of things here.

PRESIDENT.—The Council will see that we have a good precedent to go upon, and it is only in cases of extraordinary emergency when public safety will be endangered by any delay in taking action or when the local authorities have not formed a proper conception of the gravity of the situation that Government will intervene. It is as well that they should reserve such a power for themselves. This is a provision intended for public safety.

MR M. C. RANGIENGAR.—But there may be a provision for a subsequent enquiry or the period of time for which the order shall remain in force may be limited.

PRESIDENT.—I do not think this to be necessary.

MR. M. C. RANGIENGAR.—"Until the Magistracy takes action in the matter" or some such words may be used. Otherwise, the provision will frighten the public.

PRESIDENT.—It is imaginable that there may be circumstances under which Government would be justified in taking prompt action, and it would be inexpedient to call upon a Magistrate to take the necessary action.

MR. M. C. RANGIENGAR.—Government may pass the order and direct that it be in force for such time as it considers necessary. As the section reads the order may remain in force for any length of time.

MR. C. SRINIVASIENGAR.—No. Only for two months. Government could only pass such an order as the District Magistrate can pass. It will be in force only for two months, unless it is further extended.

PRESIDENT.—No. The provision has reference only to the nature of the order and not to its duration.

MR. A. RANGASWAMI IYENGAR.—I also think that it is the nature of the order and not the duration that is contemplated.

PRESIDENT.—Government would rather like to be rid of any such power and would like to hand it over to the District Magistrate. It is only for meeting the moment's emergency that such power is required by Government. You may leave this alone, as otherwise it may work hardship the other way. A Magistrate may get paralysed in a case of emergency. Provision should be made to meet such cases so that Government may not be powerless in such circumstances and may step in and take prompt action to secure the public safety. As I said, we have a good precedent in the Bombay Act and I suppose we should not be erring very much if we adopt it.

The amendment was put to the Council and was carried, the votes being eight *for*, two *against* and one being *neutral*.

CLAUSE 35, SUB-CLAUSE (1).

Proposed by Mr. K. P. Puttanna Chetty that "letting" be substituted for "lighting" in line 3, para *(f)*, and that the word "deceased" be retained in para *(i)* and the words "as to" in para *(k)*.

These amendments were seconded by Messrs. V. N. Narasimmiyengar, A. Rangaswami Iyengar and B. Nagappa respectively and were approved by the Council.

CLAUSE 35, SUB-CLAUSE (2).

Proposed by Mr. K. P. Puttanna Chetty and seconded by Mr. C. Srinivasiengar that the words "every rule, order or regulation" be substituted for the words "the rules, orders and regulations."

This was approved by the Council.

CLAUSES 35 & 36.

The amendments to these clauses which Mr. C. Srinivasiengar had proposed to move were withdrawn by him.

Proposed by MR. K. P. PUTTANNA CHETTY and seconded by MR. H. J. BHABHA that the word "a" be inserted before the words "longer period" in sub-clause (3) of clause 35.

This was approved by the Council.

CLAUSE 37.

Proposed by MR. K. P. PUTTANNA CHETTY and seconded by MR. B. NAGAPPA that the word "or" before the word "place" be omitted and the words "or vehicle" inserted after it, in the last line but one.

This was approved by the Council.

CLAUSE 38, SUB-CLAUSES (1) & (2).

MR. K. P. PUTTANNA CHETTY.—Sir, I beg to propose that the words "for reasons which he shall record" and "stating his reasons therefor," respectively, occurring in Sub-clauses (1) and (2) be omitted.

MR. RANGIENGAR.—It seems to me that it is necessary to retain these words as an appeal is allowed against these orders. Under Sub-clause (2), an order made by a subordinate Magistrate has to be confirmed by the District Magistrate. How can he confirm or cancel the order without any materials to go upon.

PRESIDENT.—Where is the time for a Magistrate taking action under this clause to record his reasons in writing? This is an emergent order and the course proposed by the Select Committee will defeat the object thereof. It is simply to see whether the subordinate Magistrate has used his discretion properly that sub-clause (2) directs that the order be communicated to the District Magistrate. If action is taken by the District Magistrate himself, there is full discretion given to him to pass any order he considers fit, but if it is taken by a subordinate Magistrate, he must communicate his order to the District Magistrate who will exercise his discretion and see whether he will confirm the order or cancel it. All this will have to be done on the instant, sometimes by word of mouth. The provision that reasons be recorded will unnecessarily hamper the taking of action by the Magistrate. Of course, the Magistrate will be held responsible if he passes a wrong order. If the Council will agree, Mr. Puttanna Chetty's amendment may be adopted.

The Council agreed to adopt the amendment.

CLAUSE 39.

Proposed by Mr. C. Srinivasiengar and seconded by Mr. Puttanna Chetty that the words "subject to the control of the District Magistrate" inserted by the Select Committee in this clause be omitted and the words "and subject to his control" be restored as in the original bill.

This was approved by the Council.

CLAUSE 40.

The amerdment to this clause proposed to be moved by Mr. C. Srinivasiengar was withdrawn by him.

CLAUSE 41, SUB-CLAUSE (1).

Proposed by Mr. K. P. Puttanna Chetty and seconded by Mr. C. Srinivasiengar that the words "by public notice" be inserted between the words "may" and "prescribe" in the 9th line of this sub-clause.

This was approved by the council.

CLAUSE 41, SUB-CLAUSE (2).

Proposed by Mr. K. P. Puttanna Chetty and seconded by Mr. C. Srinivasiengar that the wording of the original bill in this sub-clause be restored.

This was also approved by the Council.

CLAUSE 44, SUB-CLAUSES (1) AND (2).

MR. K. P. PUTTANNA CHETTY. Sir, I beg to propose that the following be substituted for sub-clause (1) and that sub-clause (2) be omitted:—

"The District Magistrate, any first class Magistrate, any Amildar or Deputy Amildar may within the local limits of his jurisdiction, regulate, and control by the grant of license or otherwise, the conduct of all assemblies and processions, the playing of music, the beating of drums, tom-toms or other instruments and the blowing or sounding of horns or other noisy instruments in or near a street."

I beg to explain in this connection that the present amendment is based upon the existing practice. It is the Magistrate that grants the license. There is a rule to that effect in the Regular Police Rules. The Police carry out his orders. So, in the proposed amendment it is stated that the District Magistrate, any first class Magistrate or any Amildar or Deputy Amildar may regulate and control the conduct of assemblies etc., by the grant of licenses or otherwise. It is also proposed to expunge sub-clause (2). Under the existing practice an appeal lies to the District Magistrate from an order passed by a subordinate Magistrate. An order passed by the District Magistrate is however not appealable to Government under the Rules. It is true Government have taken up such cases and passed orders on them after hearing the representations of parties. But such orders have been in the way of directions to the District Magistrate and not as Government sitting in appeal over the dicision of the District Magistrate. The existence of a provision for appeal to Government will weaken the hands of the District Magistrate and will tend to make parties prefer such appeals in every case to Government. It seems much better to leave the matter entirely in the hands of the District Magistrate, and as heretofore Government may receive petitions and dispose of them in the exercise of the general powers which are vested in them in this behalf. What is now proposed is only to continue the existing practice and to omit the provision made for allowing a further appeal to Government in such matters.

MR. A. RANGASWAMI IYENGAR.—I would add only one word. The meaning of the word "may" is differently construed in different places. Although the word implies a certain amount of discretion, it may be taken to mean that for every procession, etc., a license is necessary. I think that it will be better to adopt the words "it shall be lawful, etc.," so as to make it clear that Magistrates may or may not take action.

PRESIDENT. The Second Councillor's idea in proposing this amendment is not to break away altogether from the existing practice. He seeks to give a little prominence to the idea of licenses which does not exist in the Bombay Act, without insisting on a license being taken out in every case.

MR. A. RANGASWAMI IYENGAR.—"May" would imply that some action should invariably be taken. Half a dozen persons may go out for an invitation. They may

take a piper with them and they may be blamed for not taking out a license. My suggestion is purely a techinical one. It will give greater liberty of action and discretion to the Magistrate if the words "it shall be lawful" are used instead of "may."

PRESIDENT.—I think the idea was not to make too violent a departure from the existing practice and at the same time to indicate that licenses may be issued.

MR. K. P. PUTTANNA CHETTY.—It is not in every case that a license will have to be obtained. It is only in cases where the Amildar apprehends some disturbance, as for instance when there are factions in the village, that a license may be required to be taken out.

MR. B. NAGAPPA.—Sir, I beg to oppose the amendment as regards the omission of sub-clause (2). The reasons assigned by the learned mover of the amendment for omitting this sub-clause are twofold. He contends *firstly*, that there is no statutory power given to Government to hear appeals from the orders of the District Magistrate; *secondly*, that it will have the effect of weakening the power of the District Magistrate.

As to the first reason, I beg to submit that the District Magistrate passes the order in his capacity not as District Magistrate but as the head of the District Police. The practice invariably has been to allow appeals to Government from such orders; and several cases have been decided and many principles have been enunciated by Government in this connection. As to the second, a moment ago it was stated that there might be perversity on the part of a District Magistrate in passing orders, that he cannot be trusted therefore and that the intervention of Government was necessary. When a provision exists that Government has the power of hearing appeals against the orders of a District Magistrate, he will be more careful in passing his orders and the interests of parties will be safeguarded to a great extent.

MR. C. SRINIVASIENGAR.—The practice seems to be that petitions are presented to Government and not appeals.

MR. B. NAGAPPA.—Whether we call it petition or revision or appeal, Government have the power to interfere. At any rate, they have been revising the orders passed by the District Magistrate. If sub-clause (2) is omitted as proposed, Government will have no such power to interfere.

PRESIDENT.—What Mr. Puttanna Chetty states is that an innovation has been made by the Select Committee and that therefore the newly added sub-clause (2) should be deleted.

MR. B. NAGAPPA.—It is no innovation at all. It only enacts the existing practice. Whether as an appellate authority or otherwise, Government have been entertaining petitions from the orders of a District Magistrate passed as the head of the District Police. If the same is proposed to be continued, the question will be under what section they are to interfere.

PRESIDENT.—Will you quote from the Madras or the Bombay Act or the Police Rules any provision for an appeal to Government against the order of a District Magistrate passed under clause 44?

MR. B. NAGAPPA.—I quote the proceedings of the Mysore Government itself to show what the existing practice is.

PRESIDENT.—The practice will be continued.

MR. B. NAGAPPA.—If so, it is all right. But the deletion of the sub-clause affects the power of Government to entertain appeals, especially when no reference is made to the existing practice.

PRESIDENT.—We do not propose to interfere with the existing practice. To justify a provision in the Regulation for the first time, have you any precedent either in the Madras or the Bombay Act or in the Police Rules?

MR. B. NAGAPPA.—Similarly, there is no provision for insisting upon people to take out a license and if we have to adhere to the existing practice a license will have to be taken out in every case. An Amildar may refuse to grant a license. Then, is no appeal to lie against his order?

PRESIDENT.—We take this provision about licenses from the existing Police Rules. Magistrates may issue licenses as provided for in those rules.

MR. B. NAGAPPA. The Rules say that the Amildar-Magistrate or the Deputy Commissioner may grant licenses. That means that an appeal will lie to the Deputy Commissioner against the order of the Amildar refusing to grant a license.

MR. K. P. PUTTANNA CHETTY.—The same presumption will continue.

MR. T. ANANDA RAO. There is one point which I think has to be borne in mind. The order proposed to be appealed against is one passed in regard to a particular occasion. I think it will be an order in regard to an assembly which is coming on immediately. I should like to know what object will be served in appealing against that order after the occasion is over.

MR. V. N. NARASIMMIYENGAR.—The order may apply to succeeding occasions as for instance, Holi feast.

MR. B. NAGAPPA.—If you allow that it is competent for a Deputy Commissioner to hear parties and decide on the legality of an order passed by an Amildar, why not provide for the same in the Regulation itself.

MR. M. C. RANGIENGAR.—I do not think that an appeal is preferred to the Deputy Commissioner at present. What is done is, only a petition is filed, which is registered as a miscellaneous petition. The Deputy Commissioner hears the parties and either cancels or confirms the order of the Amildar. The petition presented to him is as a Deputy Commissioner having jurisdiction over the whole area of a district. The amendment proposed by Mr. Puttanna Chetty gives power to the Deputy Commissioner to entertain a petition against an order passed by an officer subordinate to him and to deal with it in any way he thinks fit. Within his jurisdiction any body can apply to the Deputy Commissioner irrespective of the question whether the subject went before an Amildar or an Assistant Commissioner.

PRESIDENT.—Yes. The amendment proposed does not affect the right of parties. The order passed by the Deputy Commissioner will be in his capacity as the head of the District, *i.e.* in his executive capacity, and it would be inexpedient for Government to entertain an appeal from that order and interfere with it. If the order relates to a custom, the question whether the continuance of the custom is desirable or not may come before Government after the event is over, but so for as the emergency of the occasion is concerned, the Deputy Commissioner has to take such action as he thinks fit after taking all the circumstances of the case into consideration.

MR. B. NAGAPPA.—May I ask if the existing practice will be continued?

PRESIDENT.—Yes; it will be continued. We may give you an assurance as to that.

MR. B. NAGAPPA.—In that case, I beg to withdraw my opposition.

The Council resolved to adopt sub-clause (1) as amended by Mr. K. P. Puttanna Chetty and to omit sub-clause (2).

CLAUSE 44, SUB-CLAUSES (3) to (6).

MR. K. P. PUTTANNA CHETTY.—Clause 44, sub-clause (1), refers to the powers of the Magistracy and the Amildar. Sub-clauses (3) to (6) define the powers of the Police to regulate assemblies etc., and may well form a separate clause by themselves.

MR. C. SRINIVASIENGAR.—I beg to second this proposition.

This was approved by the Council.

Proposed by Mr. Puttanna Chetty and seconded by Mr. Srinivasiengar that the word and figure "and 44" be inserted after the figure "42" and that the words "of this regulation" be omitted.

This was also approved.

CLAUSE 44, SUB-CLAUSE (5).

Proposed by Mr. Puttanna Chetty and seconded by Mr. Srinivasiengar that the word "such" in the fifth line of this clause be omitted and the words "issued under this or the preceding section" inserted after the word "order" in the same line.

This was also approved.

CLAUSE 44, SUB-CLAUSE (6).

Proposed by Mr. Puttanna Chetty and seconded by Mr. Srinivasiengar that the words "given under this section" occurring in this sub-clause be omitted.

This was also approved.

The amendment proposed to be moved by Mr. Srinivasiengar to omit the words "as for an arrear of land revenue" was withdrawn by him, as on further consideration he was of opinion that there would be no harm in allowing them to remain, although there was a general provision regarding this in clause 23 of the bill.

CLAUSE 45, SUB-CLAUSE (4).

MR. K. P. PUTTANNA CHETTY.—Sir, I beg to propose that this sub-clause which the Select Committee has deleted may be retained.

MR. T. ANANDA RAO.—I beg to second the amendment.

MR. A. RANGASWAMI IYENGAR.—This provision goes too much into details. It gives power to destroy a dog if it could not be traced to the owner. It had better be omitted.

MR. K. P. PUTTANNA CHETTY.—If the dog has a collar round its neck, the owner must be traced.

The proposal was approved.

CLAUSE 46, SUB-CLAUSE (1).

Proposed by Mr. Puttanna Chetty and seconded by Mr. Rangaswami Iyengar that the words "relating to revenue or any other law at the time in force" deleted by the Select Committee be restored and the words "or rule having the force of law" inserted by the Select Committee be deleted.

This was approved by the Council.

CLAUSE 51.

The amendment proposed to be moved by Mr. Srinivasiengar to substitute "Regulation" for "Act" was withdrawn by him.

CLAUSE 54 (*i*).

MR. K. P. PUTTANNA CHETTY.—Sir, I beg to propose that the original wording of this clause be restored. The word "gathered" has a special meaning there. The provision applies to persons assembled for the purpose and not to spectators.

MR. C. SRINIVASIENGAR.—The original wording seems to be better. I second the amendment.

The amendment was adopted.

CLAUSE 54, SUB-CLAUSE (*j*) (ii).

Proposed by Mr. Puttanna Chetty and seconded by Mr. Rangaswami Iyengar that the word "permits" be restored in place of the word "causes" substituted by the Select Committee.

This was approved.

CLAUSE 54 (*k*).

Proposed by Mr. Srinivasiengar and seconded by Mr. Puttanna Chetty that the words "in any street" inserted by the Select Committee be omitted.

This was also approved.

CLAUSE 54 (*w*).

MR. SRINIVASIENGAR.—I have got my doubts about the words "in any street" in this para.

MR. PUTTANNA CHETTY.—We discussed the question in the Select Committee and came to the conclusion that if the act is done in any place other than a street, it is not punishable. The object is to prevent it from becoming a public nuisance; the words "in any street" were advisedly inserted. "Street" is defined in the Regulation as including "a highway, etc.——."

MR. RANGASWAMI IYENGAR.—I find that even the original Police Committee had proposed to insert the words "in any street." Only they were not inserted somehow. (*Vide* page 19—para 88 of the Report of the Committee originally appointed to revise the Draft Police Regulation).

MR. SRINIVASIENGAR.—I withdraw my objection. I thought "in any public place" was what was meant.

CLAUSES 61, 62, 64 & 77.

The amendments to these clauses of which notice had been given by Messrs. Srinivasiengar and Syed Amir Hassan were withdrawn by them.

CLAUSE 78.

MR. K. P. PUTTANNA CHETTY.—Sir, I beg to propose that the words added by the Select Committee to this clause be deleted.

MR. C. SRINIVASIENGAR.—I second the amendment.

MR. B. NAGAPPA.—It is better to keep the clause as it is, as by following the irregular procedure, the interests of the party will be affected.

MR. A. RANGASWAMI IYENGAR.—The general saving clause is not to be mutilated in the way in which it has been. Whether a party should be punished or not is a different question. So I think the words inserted by the Select Committee may be omitted.

PRESIDENT.—The informality will not invalidate the order.

The amendment proposed was put to the Council and was carried.

CLAUSE 79, SUB-CLAUSE (1).

MR. K. P. PUTTANNA CHETTY.—Sir, I beg to propose that the words "intended pursuance" occurring in the original sub-clause but omitted by the Select Committee be retained.

MR. A. RANGASWAMI IYENGAR.—I second the motion.

MR. M. C. RANGIENGAR.—Because the words "good faith" appear, these words were considered unnecessary.

MR. RANGASWAMI IYENGAR.—I think the section as proposed to be amended gives greater protection.

MR. RANGIENGAR.—I beg to oppose the amendment.

The amendment was put to the Council and carried, the votes being 7 *for* and one *against*, others not voting.

CLAUSE 79, SUB-CLAUSE (3).

Proposed by Mr. Puttanna Chetty and seconded by Mr. Srinivasiengar that the original wording of the clause be restored.

This was approved by the Council.

CLAUSE 79, SUB-CLAUSE (4).

Proposed by Mr. Puttanna Chetty and seconded by Mr. Srinivasiengar that this sub-clause which has been deleted by the Select Committee be restored.

This was also approved by the Council.

MR. K. P. PUTTANNA CHETTY.—Sir, I beg to propose that the Police Bill as now amended by this Hon'ble Council be taken into consideration and passed at a subsequent meeting of the Council.

MR. B. NAGAPPA.—I second the motion.

PRESIDENT.—The date of the next meeting will be announced later on. It may be about the first week of June.

MR. B. NAGAPPA.—May I suggest that the bill as now amended be printed and circulated among the members.

MR. RANGASWAMI IYENGAR.—As the bill will not be published in the *Mysore Gazette* till it is passed into law, I think the final corrected proof may be sent to the Members, so that they may point out any corrections that may be found necessary.

The meeting was declared dissolved by the President.

V. P. MADHAVA RAO,
President.

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XVI

NOTIFICATION.

No. 193—*L. C.* 7-07, *dated 4th November* 1907.

Under Rule 40 of the rules for the conduct of business of the Mysore Legislative Council, the following report of the Select Committee on the Bill to consolidate and amend the Law relating to Village Offices in Mysore, and the Bill as amended by the Committee are published for general information.

By Order,
K. MYLAR RAO,
Secy., Mysore Legislative Council.

Report of the Select Committee appointed for the consideration of the Village Offices Bill.

We, the Members of the Select Committee appointed for the consideration of the Village Offices Bill, beg to submit the following report :—

2. Upon a consideration and discussion of the several provisions of the Bill clause by clause among ourselves, and upon a consideration also of the various representations relating to the Bill, received by the Secretary in response to the publication of the Bill in the Gazette, we have considered it expedient to recommend the amendments which have been introduced into the copy of the draft herewith annexed, in which the numbering of the clauses has also been altered to the necessary extent. The principal amendments proposed together with the reasons for the same are noted here below.

3. *Clause 1, sub-clause (2)*—As the Government may, in certain cases, consider it expedient to exclude any particular area from the operation of the Regulation, power has been reserved to them for the purpose by the addition of a proviso.

4. *Clause 1, sub-clause (3)*—The date from which the Regulation is to come into force has been altered, as we think it desirable that Government should fix it by notification rather than that it should be determined by the public with reference to the date of publication of the Regulation.

5. *Clause 2.*—The original Bill contains no clause repealing the existing rules and orders and saving titles already acquired. We have therefore added one and marked it clause 2.

6. *Clause 3—(Clause 15 of the original Bill).*—Clause 15 of the original Bill provides for the disposal of suits pending at the commencement of this Regulation. This has been transposed next to clause 2, as being its proper place and marked clause 3.

7. *Clause 4—(Clause 2 of the original Bill).*—The definition of "emoluments" given in the original Bill is the same as that contained in Madras Act III of 1895, but contains a misprint. This has been corrected so that the qualification "granted or continued in respect of or annexed to any village office by Government," would apply to the four classes of emoluments previously specified. The word "Government" has been substituted for the word "State" as being the term used throughout the Regulation.

8. The words "District Deputy Commissioner" and "Deputy Commissioner" being confusing, the familiar terms "Deputy Commissioner" and "Assistant Commissioner" have been substituted for them, respectively, throughout the Bill. In some places, where such a provision is necessary, both the terms "Deputy Commissioner" and "Assistant Commissioner" have been adopted to cover the cases in which the Deputy Commissioner has one or more taluks under his own and direct charge. The definition of "Assistant Commissioner" has been amended so as to include any Assistant Commissioner to whom cases under this Regulation may be transferred for disposal.

9. *Clause 5—(Clause 3 of the original Bill).*—The word "partitioned" has been added after the word "transferred" as the emoluments of village officers may not be reckoned among family properties and form the subject of partition.

10. *Clause 6, sub-clause (1)—(Clause 4, sub-clause (1) of the original Bill).*—This sub-clause in the original Bill makes all the village offices concerned cease to exist on the grouping, amalgamation or division of villages. The villages may be grouped, amalgamated or divided in respect of *certain* village offices only. We have therefore amended this sub-clause so as to empower Government to direct what particular village offices shall cease to exist and what particular ones shall be created.

11. *Clause 6, sub-clause (2)—(Clause 4, sub-clause (2) of the original Bill).*—To remove all doubt as to whether the last holders may not be selected, a small alteration has been made in the wording of the sub-clause.

12. *Clause 6, sub-clause (3)—(Clause 4, sub-clause (3) of the original Bill).*—In the original Bill, provision is made only for the reduction of village offices but not for the reduction of the number of persons holding a village office, or for the increase in the number of village offices or officers. These omissions have been supplied by suitable amendments.

13. *Clause 7, sub-clause (1)—(Clause 5, sub-clause (1) of the original Bill).*—As the power to dismiss or to remove a village officer is an important one, we have provided that when exercised by an Assistant Commissioner, his order should be subject to the confirmation of the Deputy Commissioner. Further, the original Bill contains no provisions for depriving the heirs of a dismissed holder of the hak, as is now often done where the dismissal has been for a heinous offence. To remedy this, a new clause has been added.

14. *Clause 7, sub-clause (2)—(Clause 5, sub-clause (2) of the original Bill).*—We are of opinion that it is absolutely necessary that an Amildar or Deputy Amildar should have the power of fining the patel, shanbhog, toti and talari of an alienated village to enable him to exercise some control over them, and have accordingly provided for the same. Such control is found necessary particularly in Police and Sanitary matters.

15. *Clause 7, sub-clause (3)—(Clause 5, sub-clause (3) of the original Bill).*—The words "proprietor" and "village watchman" have been replaced by the words "holder" and "toti and talari" respectively wherever they occur in the Bill, as the latter are the terms used in the Land Revenue Code and the other parts of this Regulation.

It seems to us desirable to empower the holder of an alienated village to fine the patel, shanbhog, toti and talari thereof, as he will otherwise have no control over them, and further to reserve power to Government to invest him with the higher powers of suspension, removal or dismissal, if he is found fit to exercise them. We have accordingly amended the clause so as to provide for this.

16. *Clause 7, sub-clause (4)—(Clause 5, sub-clause (4) of the original Bill).*—As village officers are sometimes punished on mere complaints or reports and without proper enquiry, we consider it necessary that the authority taking proceedings against them should hold an enquiry himself. We further think that any order

punishing a village officer passed by the holder of an alienated village should at once be communicated to the local Amildar.

17. *Clause 8, sub-clause (1)—(Clause 6, sub-clause (1), of the original Bill).*—The age of majority has been specified as eighteen years completed.

Though sex is ordinarily a factor to be taken into consideration, the minor village offices such as nirganti, toti and talari are sometimes filled by women with fair efficiency and to the entire satisfaction of all concerned. We have therefore proposed to reserve to the Deputy Commissioner the power to appoint females in exceptional cases.

18. *Clause 8, sub-clause (2)—(Clause 6, sub-clause (2), of the original Bill.)*—The succession to the office has been made to be regulated in general terms by the "law applicable to the last holder" so as to cover cases in which the last holder is other than a Hindu to whom the Hindu Law may not be applicable. A further proviso has been added to this sub-clause so as to allow of the eligibility of persons recognised as joint holders of an office being considered along with that of heirs of the last holder on the occurrence of a vacancy.

19. *Clause 8, sub-clause (4)—(Clause 6, sub-clause (4), of the original Bill.)*—The sub-clause in the original Bill gives a wide discretion to the Deputy Commissioner or Assistant Commissioner, in the exercise of which it is just possible that he may choose from outside the family and may overlook the rights of the members of the divided family. We have accordingly provided that preference should be given to the *nearer members* of the family, as far as possible.

20. The word "heir" used in clause 6, sub-clause (5), of the original Bill does not indicate clearly to whom the succession is to be traced. It has been replaced by the word "successor."

21. Sub-clause (6) of clause 6 of the original Bill being superfluous, has been omitted.

22. *Clause 8, sub-clauses (5) and (6).*—When the last holder of an office has died, leaving a widow without male issue, and also when the person succeeding to a vacancy is a minor, it may be a very great hardship, if a portion of the emoluments of the office be not made available for the widow's or the minor's maintenance. We have therefore considered it fit that the Deputy Commissioner should be empowered

to direct that a portion of the emoluments not exceeding 25 per cent in the case of a widow and not exceeding 50 per cent in the case of a minor, be so paid, and also to revise such order whenever found fit or necessary.

23. *Clause 9—(Clause 7 of the original Bill).*—We see no reason why there should be any difference between alienated and unalienated villages in regard to the qualifications required for the five classes of village offices. According to the Bill, the right of appointment vests in the holder of the alienated village, but we are of opinion that the appointment should be subject to confirmation by the Deputy Commissioner or Assistant Commissioner. We further think that in case the holder of the village fails to fill up a vacancy within a reasonable time, the Deputy Commissioner or Assistant Commissioner should have the power to make the appointment. The clause has been amended accordingly.

24. *Clause 11, sub-clause (2)—(Clause 9, sub-clause (2), of the original Bill).*—It seems to us that the words "for any office or for the recovery of the emoluments of the office" are unnecessary, because even a minor may be ineligible under clause 8, sub-clause (1), paras (*e*) and (*f*). They have therefore been omitted.

25. *Clause 12—(Clause 11).*—The transfer of a case by the Deputy Commissioner from his own file has not been provided for in the original Bill. This has been rectified.

26. *Clause 13—(Clause 12).*—We are of opinion that the procedure prescribed for formal enquiries under the Land Revenue Code may conveniently be followed in regard to suits filed under this Regulation subject to such rules as may be framed under clause 23. Clause 12 of the original Bill has accordingly been amended.

27. *Clause 15—(Clause 16 of the original Bill).*—The proviso in clause 16 of the original Bill is framed on the analogy of the procedure in British India. It is not suited to the system obtaining in Mysore and has therefore been omitted.

28. *Clause 16—(Clause 17).*—We think that the order passed by a Deputy Commissioner or Assistant Commissioner confirming the appointment made by the holder of an alienated village, should be open to appeal. We have therefore added an explanation to this clause.

29. *Clause 18—(Clause 14 of the original Bill).*—This is clause 14 of the original

Bill. It has been transposed and brought here as being its proper place. The clause in the original Bill, though copied from the Civil Procedure Code, has omitted the words "in which the decree is final," and "with its own opinion on the point," occurring in section 617 of the Code. These have been added in their proper places. We also think that the term "Revenue Commissioner" should be substituted for the words "Chief Controlling Revenue authority" occurring in this and other parts of the Regulation to suit present conditions.

30. *Clauses 19 and 20.*—Two new clauses 19 and 20 relating to power to call for records of cases, and applications for review based on sections 622 and 623, Civil Procedure Code, have been added.

31. *Clause 21—(Clause 10 of the original Bill).*—We think that the several provisions contained in the original Bill regarding limitation for suits, appeals and applications, may, with advantage, be relegated to a schedule to be appended to the Regulation. We have accordingly omitted clause 10 of the original Bill and framed a new clause 21, directing the dismissal of suits, etc., instituted after the period of limitation, and we have attached a schedule prescribing periods of limitation for the several cases.

32. Clause 20 of the original Bill has been omitted, as provision has been made in this behalf in the Police Bill now before the Legislative Council.

33. The original Bill contains no provision to enforce the prohibition against alienations, etc., made in clause 5, and that clause itself, if taken absolutely, would be inconsistent with some of the provisions of the Potgi rules. Hence a new clause has been added reserving to Government the power to frame rules to regulate the action to be taken in case of such alienations.

34. The other amendments that have been made are trivial or incidental to those noted above.

35. In conclusion, we have the honor to recommend that the Bill as amended by us be passed into law.

M. KANTHARAJ URS,
(*Chairman*).
A. RANGASWAMI IYENGAR.
V. N. NARASIMMIYENGAR.
M. C. RANGIENGAR.
T. ANANDA RAO.

2nd November 1907.

Note.—The portions within heavy brackets are the deleted portions of the original bill and those in italics are newly inserted.

THE VILLAGE OFFICES BILL.

A bill to consolidate and amend the Law relating to Village Offices in Mysore.

(Bill as revised by the Select Committee.)

Preamble.

Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Village Offices Regulation, 190....

(2) It extends to the whole of Mysore, [and] *provided that Government may, by notification in the official Gazette, exclude any local area from its operation and may amend or cancel such notification.*

Romanize the portion italicised.

(3) It shall come into force [with effect] from [the expiry of one month from the] *such* date [of its first publication in the official Gazette] *as may be notified by Government.*

Romanize

2. On and after that date, all existing rules and orders relating to village offices shall be repealed; provided that nothing herein contained shall be deemed to affect any right acquired or to revive any right that has ceased to exist, or to affect any act done or liabilities incurred under the said rules and orders.

Romanize

Repeal of rules & orders; saving of rights already acquired

3. All suits, appeals and applications pending at the commencement of this Regulation shall be heard and disposed of as if they had been preferred under this Regulation.

Romanize

Disposal of suits &c pending at commencement of Regulation.

Definitions.

[2.] *4.* In this Regulation, unless there is something repugnant in the subject or context,—

"Village" means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order, or with the settlement of boundaries, or other matters of civil administration pertaining to a village,

whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known:

Provisos. Provided as follows :—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may in like manner amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer." "Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village office.

"Emoluments." "Emoluments" means and includes

(i) lands;

(ii) assignments of revenue payable in respect of lands;

(iii) fees in money or agricultural produce;

(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any village office by the ~~[State]~~ *Government*. Romanize

"~~[District]~~ Deputy Commissioner." ~~[District]~~ "Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district.

"~~[Deputy]~~ *Assistant* Commissioner." Romanize

"~~[Deputy]~~ *Assistant* Commissioner." ~~[includes]~~ *means* an Assistant Commissioner in charge of a division ~~[who, for the time being, is authorized to exercise the powers of a Deputy Commissioner]~~ *of a district and includes any other Assistant Commissioner to whom cases under this Regulation have been transferred for disposal*. Romanize

Romanize

Romanize

Romanize

Romanize

in so far as such cases are concerned.

~~[3.]~~ *5*. The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, *partitioned*, or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Emoluments of village offices inalienable, and not liable to attachment.

inpartible

Romanize

Proviso

Provided that in the case of lands which are not assigned as emoluments to the holder of a village office under rules framed under section 27, nothing contained in this section shall be deemed to affect transfers partitions or encumbrances, as between members of a hakdar's family.

Villages may be grouped, amalgamated or divided.

~~[4]~~ 6. (1) The Government may, with reference to rules made in this behalf under section ~~[21]~~ 23, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages; and may also direct that any ~~[thereupon, all]~~ village office ~~[s]~~ in the villages, portions of villages or villages grouped, amalgamated or divided as aforesaid, shall cease to exist, and that new offices shall be created for the new village or villages.

(2) In choosing persons to fill such new offices, the Deputy Commissioner or Assistant Commissioner shall select the persons whom he may consider the best qualified from among ~~[the families of]~~ the last holders of the offices which have ceased to exist or their families.

Reduction ~~[of]~~ or increase of village offices or village officers.

(3) The Government may also direct that the number of village offices attached to a village or the number of village officers shall be

(a) reduced, and thereupon the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices;

or (b) increased, in which case the Deputy Commissioner or Assistant Commissioner shall select the best qualified from among the families of the existing officers.

Power to punish village officers.

~~[5]~~ 7. (1) The Deputy Commissioner or Assistant Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause, but any order of dismissal or removal passed by an Assistant Commissioner shall be subject to the confirmation of the Deputy Commissioner.

The Deputy Commissioner may declare, under rules to be framed under section 23, that the dismissal or removal from office entails forfeiture of the right of succession of all undivided members of the family of the person so dismissed or removed.

(2) An Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine any holder of a village office in an unalienated village or the ~~for any of the causes specified in subsection (1)~~ or for misconduct or neglect of duty

patel, shanbhog, toti and talari of an alienated village for any of the causes specified in sub-section (1) and in such amount as the Government may, by general or special order, prescribe.

(3) The [proprietor] *holder* of an alienated village may, of his own motion or on complaint and after enquiry, *fine*, suspend, dismiss or remove any holder of a village office in his village, except the patel, shanbhog, [and the village watchman,] *toti and talari, and may also fine the patel, shanbhog, toti and talari*, for any of the causes specified in sub-section (1).

Provided that the Government may invest the holder with all or any of the powers of an Assistant Commissioner, under clause (1) above.

(4) The officer or person taking [proceedings] *action* against a village officer under any of the preceding sub-sections ~~of this section~~ shall [~~make a record of his reasons for so doing~~] *hold the enquiry himself, record his proceedings* in writing and furnish a copy of [~~the same~~] *order* to such village officer. *When such order is passed by the holder of ~~an alienated village, a copy shall also be forwarded at the same time to the Amildar for information and record.*

(3) The holder of an alienated village or where there are more such holders than one, any one of them, or the agent of such holder or holders may, when duly authorised in that behalf by a Commission issued by the Government in the form of Schedule A, exercise in the village aforesaid and in respect of all or any particular pieces specified and without prejudice to the exercise by the Deputy Commissioner, Assistant Commissioner, Amildar and Deputy Amildar of the powers respectively vested in them by subsections (1) & (2), all or any of such powers of an Assistant Commissioner, Amildar or Deputy Amildar under those subsections, as may be conferred upon him by the Commission.

(3), the proceedings together with a copy of the order shall also be forthwith reported by him to the Deputy Commissioner or Assistant Commissioner through the Amildar or Deputy Amildar for information and record or for confirmation, as the case may be

(5). The Deputy Commissioner may declare, under rules made under Section 22, that the dismissal or removal of any village officer, whether in an unalienated or alienated village and whether ordered by himself or confirmed by him shall entail a forfeiture of the rights of succession of all undivided members of the family of the officer so dismissed or removed.

(6) Fines and suspensions under subsections (1), (2) and (3), shall be subject to such limitations as may be laid down by government by rules made under section 22.

(7). All fines imposed under this section shall be recoverable as arrears of land revenue, the recovery in the case of fines payable by village officers in alienated villages being made by the Amildar or Deputy Amildar and credited to the public treasury.

[6] 8. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner *or Assistant Commissioner* shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex;

(*b*) has not attained [~~the age of~~] majority, *that is, completed 18 years of age*;

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section [~~21~~] ~~23~~. 22

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner *or Assistant Commissioner*, disqualifies him for holding the office;

(f). has been adjudged by the Deputy Commissioner or Assistant Commissioner after a summary enquiry held in accordance with the provisions relating to summary enquiries contained in the Mysore Land Revenue Code, IV of 1888, to be of general bad character.

(f) [by reason of his bad character or antecedents,] is, in the opinion of the Deputy Commissioner *or Assistant Commissioner*, disqualified for holding the office, *by reason of his bad character, or ante-cedents.*

Provided that in the case of nirganti, toti and talari, the Deputy Commissioner or Assistant Commissioner may, for special reasons, make an exception in favor of females otherwise competent.

Romanize

Succession also appointment in case of permanent vacancy

(2). Subject to the provisions of subsection (1), and save as hereinafter separately provided in the case of minors, and subject also to any declaration made by the Deputy Commissioner under section 9, the succession in the case of a permanent vacancy shall be regulated by the ordinary provisions of the law applicable to the last holder, provided that it shall devolve on a single heir and that where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, preference shall be given to the eldest member of the eldest branch among those persons, and (b) failing these, shall devolve on one of the duly recognised hakdars in the order of their importance as determined under rules made by Government under section 22, or one of his heirs according to the order of precedence laid down above. In the absence of persons entitled as above under (a) and (b), the Deputy Commr or Asst Commissioner may appoint any other person duly qualified under subsection (1), subject to such appointment, unless sooner determined by a decree in a suit hereinafter provided for, being cancelled in favor of a person falling under (a) or (b), in the event of such person being forthcoming, at the end of three years from the date of the appointment.

Rule of devolution of succession.

(2) The succession shall be regulated by the ordinary provisions of the [Hindu] law *applicable to the last holder*: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, [lie with] *be given to* the eldest member of the eldest branch of such persons,—*and provided further that the claims of persons who had prior to the commencement of this Regulation been recognised as hakdars to the office or their heirs shall be considered subject to such rules as may be made by Government in this behalf.*

In certain cases person other than direct heir may be appointed.

(3) When the next heir is not qualified under sub-section (1), the Deputy Commissioner *or Assistant Commissioner* shall appoint the person next in order of succession [according to seniority of age in the senior branch] who is so qualified, *the eldest member of the eldest branch being preferred* and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Temporary disqualification of heir in certain cases.

(4) Where an office has become vacant by the dismissal or suspension of the last holder, the Deputy Commissioner *or Assistant Commissioner* may direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of ~~the dismissed or suspended officer~~; *but in making the selection, the directions contained in sub-sections (2) and (3) shall as far as possible be conformed to.*

Romanize

Romanize

Romanize

Provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under

[Appointment in case of temporary vacancy]

suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-section (2) ~~and (3)~~.

Procedure to be adopted when ~~heir~~ is a minor.

~~(4)~~ When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner or Assistant Commissioner shall register the minor as the ~~[heir]~~ *successor* of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as ~~[heir,]~~ *successor* on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. ~~*It shall be competent to the Deputy Commissioner or Assistant Commissioner to assign to such successor during his minority an allowance not exceeding one half of the emoluments attached to the office.*~~ If the person registered as ~~[heir]~~ *successor* under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner *or Assistant Commissioner* shall fill up the vacancy ~~[as provided]~~ *in accordance with the provisions contained* in sub-section (2) ~~and (3)~~.

N.B. The Secretary was asked to make in this connection the following rule under Sec 73. The rule regarding selection of a person acceptable to the minor may be revised

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

~~[(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office and the Deputy Commissioner does not give the direction referred to in sub-section (4), he shall fill up the vacancy in accordance with the provisions of this section as if it had been caused by the death of the said holder; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended, is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold the office.]~~

Provision for widows of Shanbhogs and Patels in certain cases.

~~*(6) When the last holder of the office of Patel or Shanbhog has left a widow without male issue, it shall be competent to the Deputy Commissioner or Assistant Commissioner to assign to her a portion not exceeding 25 per cent of the emoluments attached to the office for her*~~

maintenance during her life or until her remarriage. Provided that orders under sub-sections 5 and 6 assigning an allowance shall be liable to be revised at the discretion of the Deputy Commissioner or Assistant Commissioner.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

[~~(7)~~] ~~(9)~~ When a vacancy occurs in the office of patel, shanbhog, nirganti, toti, or talari of an alienated village, the [~~proprietor~~] *holder* of such village shall fill up the vacancy in accordance with the [~~provisions of the following sub-sections:—~~] *principles contained in section 8, subject to the confirmation of the Deputy Commissioner or Assistant Commissioner.*

If the appointment be not made by the holder of the village within a ~~reasonable~~ time, it shall be competent to the Deputy Commissioner or Assistant Commissioner to make such appointment.

General qualifications requisite in all cases.

[(1) No person shall be eligible for appointment who—]

[(*a*) is not of the male sex;]

[(*b*) has not attained the age of majority;]

[(*c*) is not physically and mentally capable of discharging the duties of the office.]

Rule of devolution of succession.

[(2) The succession shall be regulated by the ordinary provisions of the Hindu Law: provided that it shall devolve on a single heir, and that, where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, the preference shall, subject to the provisions of this section, lie with the eldest member of the eldest branch of such persons.]

In certain cases person other than direct heir may be appointed.

[(3) Where the next heir is not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession according to seniority of age in the senior branch who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1)].

Procedure to be adopted where heir is a minor.

[(4) When the person who would otherwise be entitled to succeed to an office is a minor, the proprietor shall register the minor as the heir of the last holder and appoint

some other person qualified under sub-section (1) to discharge the duties of the office, until the person registered as heir is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as heir under this sub-section dies, or if, on attaining majority, he proves to be disqualified under clause (*c*) of sub-section (1), the proprietor shall fill up the vacancy as provided in sub-sections (2) and (3).]

Succession in the case of offices other than patel, shanbhog, etc.

[8.] *10.* The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari, shall devolve in accordance with the law or custom applicable thereto [at the date on which this Regulation comes into force; or,] *and* in the absence of any such law or custom, in accordance with the provisions of [sub-section (2) of section 6 and sub-section (2) of section 7 so far as applicable.] *sections 8 and 9 respectively.*

Suits for offices, for recovery of emoluments and for registry as heir.

[9.] *11.* (1) Any person may sue before the Deputy Commissioner *or Assistant Commissioner* for any village office *in an alienated or unalienated village* or for recovery of the emoluments of any such office, on the ground that he is entitled under [sub-section (2) or (3) of] sections [6] *8*, [or sub-section (2) or (3) of section] [7] *9* or [section] [8] *10* of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner *or Assistant Commissioner* to be registered as [heir] *successor* of the last holder of any such office.

Provided [as follows:]

No suit for declaratory decree.

(i) No suit shall be entertained for a mere declaratory decree.

Procedure in case of dispute as to nature of emoluments.

(ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Deputy Commissioner *or Assistant Commissioner* shall decide the claim on the assumption that only the [said] assignment *of revenue* constitutes the emoluments; but such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

Rejection of plaint when claimant is ineligible for appointment.

(2) If, at any time before the completion of the trial of a suit preferred under this section ~~[for any office or for the recovery of the emoluments of any office,]~~ it appears to the Deputy Commissioner *or Assistant Commissioner* that the claimant is not eligible for appointment ~~[under]~~ *on any of the grounds referred to in* sub-section (1) of section ~~[6]~~ *8* ~~[or sub-section (1) of section 7] of this Regulation,~~ ~~[as the case may be,]~~ he shall pass an order rejecting the plaint.

12. On a complaint being preferred by a nirganti, toti or talari of nonpayment of the miras payable under rules framed under Section 28 by any holder of land or other persons from whom such contribution is due, the Amildar or the Deputy Amildar of the Taluk or Sub-taluk shall hold a summary enquiry in the manner laid down in the Land Revenue code, ~~Regulation~~ IV of 1888, and pass a decision thereon; provided that the complaint is made in the year in which such miras is due or in the year immediately following it.

[Procedure in case of non-payment of miras to nirganti, toti or talari]

Limitation of time within which suits may be brought.

~~[10. (1) No suit preferred before a Deputy Commissioner under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising, whether such date be before or after the commencement of this Regulation.]~~

Limitation in case of minority.

~~[Provided that, in the case of a person who, by reason of minority, was disqualified for holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.]~~

Limitation of time within which execution of decree or order may be applied for.

~~[(2) No application for the execution of a decree or order passed under this Regulation shall be entertained, if made after the expiration of one year from the date of such decree or order.]~~

Execution of decrees and orders passed previous to commencement of this Regulation.

~~[(3) Decrees or orders passed previous to the commencement of this Regulation in regard to claims to village offices or the emoluments annexed thereto, may be executed under the provisions of this Regulation; provided that no application for the execution of any such decree or order shall be entertained if made either after the expiration of three years from the date of such decree or order or after the expiration of one year from the commencement of this Regulation.]~~

Limitation when appeal preferred.

~~[(4) In cases in which the decree or order sought to be executed was appealed against, the periods of limitation prescribed in sub-sections (2) and (3) shall commence from the termination of the appeal.]~~

Power of ~~[District]~~ Deputy Commissioner in regard to transfers of suits.

~~[11.]~~ ~~12.~~ The ~~[District]~~ Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner ~~[in charge of a division in the district,]~~ or transfer any suit from ~~[the file of one such]~~ *his own file or that of an* Assistant Commissioner to ~~that~~ of another ~~[or to the file of an]~~ Assistant Commissioner ~~[not in charge of a division]~~, for disposal.

Procedure to be observed in trying suits.

~~[12. (1) The trial of suits under this Regulation shall be regulated by rules made by Government under section 21 and by the following provisions:—]~~

Date of hearing to be fixed and parties to be heard.

~~[(i) A date shall be fixed for the hearing of the suit and the same shall be notified to the parties, who shall be entitled to be heard in person or by agent;]~~

Witnesses may be produced or summoned.

~~[(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness or that any person shall be summoned to produce a document, and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so;]~~

Record of proceedings.

~~[(iii) The officer trying the suit shall record in his own hand a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.]~~

Obligation to obey summons.

~~[(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.]~~

Procedure to be observed in trying suits.

~~*13. The procedure applicable to suits filed under this Regulation shall be the same as that prescribed for formal enquiries in the Land Revenue Code, Regulation IV of 1888, subject to such rules as may be framed under section 23.*~~

Decrees may provide for costs, and shall be executed according to rules made by Government and the provisions of the Land Revenue Code.

~~[13.]~~ ~~14.~~ Decrees and orders passed in suits and enquiries under this Regulation may provide for payment of costs according to such scale and sub-

[Every enquiry to be deemed a "judicial proceeding"]

12 (1) Every enquiry under this Regulation shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

[Procedure with regard to suits &c]

2) The procedure to be followed with regard to suits, appeals and applications under this Regulation shall be regulated by rules made by government under section 22.

15

ject to such rules as may be prescribed by Government under section [21] 23, and shall be executed in accordance with rules to be made under the said section *and the corresponding provisions of the Land Revenue Code.*

Disposal of suits and appeals pending at commencement of Regulation.

[15. All suits brought and appeals made previous to the commencement of this Regulation shall, after the commencement thereof, be heard and disposed of as if they had been preferred under this Regulation.]

Jurisdiction of Civil Courts barred.

[16.] 15. No Civil Court shall have authority to take into consideration or decide any claim to succeed to, or to the possession of, any village office, or any question as to the rate or amount of the emoluments of any village office, except as provided in proviso (ii) to sub-section (1) of section [9,] 11 any claim to recover the emoluments of any such office.

But when the claim is as between different members of a hereditary family of patel or shanbhog in respect of land entered in the Government records or otherwise shown as service inam land connected with the office of patel or shanbhog, such claim may be entertained and adjudicated upon by a Civil Court.

Proviso.

[Provided that, if, in any suit instituted under this Regulation, the defendant has pleaded before the Deputy Commissioner that a Revenue Court has no jurisdiction to entertain the suit, on the ground that no emoluments, as defined in this Regulation, appertain to the office in respect of which the suit is brought, and if, on appeal preferred from the decree in such suit, the appellate authority has decided adversely to such plea, the defendant may, within six months from the date of the appellate decree, institute a suit in a Civil Court to set aside such appellate decree on the said ground and on that ground only.]

Appeal against [order or] *decree or order of Assistant Commissioner and* Deputy Commissioner.

[17.] 16. (1) From every *decree or* order passed *under this Regulation* [by a Deputy Commissioner] *by an Assistant Commissioner,* [under section 4 or 5, and from every decree or order passed by a Deputy Commissioner in a suit preferred under section 9,] an appeal shall lie, [within one month,] to the [District] Deputy Commissioner, [or, if the said order or] *and from every* decree *or order* [was] passed by [the District] *a* Deputy Commissioner, an appeal shall lie, [within three months,] to the [Chief Controlling Revenue authority] *Revenue Commissioner.* The decision, on appeal, of the [District] Deputy Commissioner or the [Chief Controlling Revenue authority] as the case may be] *Revenue Commissioner* shall be final.

and from every order passed by the holder of a Commission exercising any of the powers of an Assistant Commissioner under sub-section (3) of Section 7.

(1) From every decree or order passed under this regulation by an Assistant Commissioner and from every order passed by the holder of a Commission exercising any of the powers of an Assistant Commissioner under sub-section (3) of Section 7, an appeal shall lie to the Deputy Commissioner; and from every decree or order passed by a Deputy Commissioner, an appeal shall lie to the Revenue Commissioner. The decision on appeal of the Deputy Commissioner or the Revenue Commissioner, as the case may be, shall be final

P.T.O.

Second appeal in certain cases.

Provided that, in respect of the offices of patel and shanbhog, a second appeal shall lie, [within three months,] to the [Chief Controlling] Revenue [authority,] *Commissioner* against the decision on appeal of the [District] Deputy Commissioner in suits preferred under section [9] *11* and in cases of dismissal of a village officer under section [5] *7*.

Explanation.—An order passed by the Deputy Commissioner or Assistant Commissioner, under section 9, shall be deemed to be an appealable order.

Appeal against order of Amildar or Deputy Amildar or [proprietor] *holder*.

(2) From every order passed by an Amildar or Deputy Amildar under sub-section (2) of section [5] *7*, and from every order passed by a [proprietor] *holder* under sub-section (3) of section [5,] *7*, an appeal shall lie [within one month] to the Deputy Commissioner *or Assistant Commissioner*, whose decision shall be final.

Disposal of appeal by officer who passed original order.

[18.] *17*. If the officer to whom an appeal is presented under this Regulation [in the capacity of District Deputy Commissioner or Deputy Commissioner,] happens to be the officer who in another capacity, passed the decision which is appealed against he shall report the fact to the [Chief Controlling] Revenue [authority] *Commissioner* or to the [District] Deputy Commissioner, as the case may be, and the appeal shall be disposed of by the [Chief Controlling authority] *Revenue Commissioner* or [District] Deputy Commissioner, and the order passed on appeal shall be final.

In certain cases Deputy Commissioner may refer question of law to the [Chief Controlling] Revenue [authority] *Commissioner*.

18. [14] (1) If, before or [during] *on* the hearing of a suit under this Regulation or of *an* appeal against a decree or order passed in a suit under this Regulation, *in which the decree is final*, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, [and] *on which* the officer trying the suit or appeal or executing the decree entertains reasonable doubt [on such question,] [he] *the officer* may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the

Second appeal in certain cases. Provided that in cases of dismissal under Section 7 and in suits under Section 11, a second appeal from the decision or appeal of the Deputy Commissioner shall lie to the Revenue Commissioner whose decision on such appeal shall be final, and provided further that nothing contained in this Regulation shall affect the right of appeal to Government under Section 210, subsection (2) of the Mysore Land Revenue Code.

exercising the powers of Amildar or deputy Amildar

authority to whom an appeal from his decision would lie, and such authority shall dispose of the appeal in accordance with law.

[Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the Chief C]

The Government and any Revenue officer not inferior in rank to an Assistant Commissioner may call for and examine the record of any inquiry or the proceedings of any Revenue officer subordinate to him and may pass such order thereon as shall seem fit; and the Government may also refer questions for the decision of the Chief Court. The provisions of the Land Revenue Code, IV of 1888, as regards revision of proceedings and reference to the Chief Court shall apply to the revision of proceedings and reference to the Chief Court under this section.

Explanation. — For purposes of revision of orders passed by the holder of a Commission under subsection (2) of Section 7, such holder shall be deemed to be an Assistant Commissioner or an Amildar or a deputy Amildar as the case may be, in so far as he is invested with the powers of an Assistant Commissioner or an Amildar or a deputy Amildar respectively under the [illegible] subsection.

point on which doubt is entertained and refer such statement *with his own opinion on the point* for the decision of the [Chief Controlling] Revenue [authority] *Commissioner* and shall stay further proceedings until the said decision is communicated to him.

(2) If the officer making the reference to the [Chief Controlling] Revenue [authority] *Commissioner* is not the [District] Deputy Commissioner, the reference shall be made through the [District] Deputy Commissioner.

Procedure to be followed in case of such reference.

Decision of [Chief Controlling authority] *Revenue Commissioner* not to be contested.

(3) The [Chief Controlling] Revenue [authority] *Commissioner* shall, if any of the parties so request, hear him or his *pleader or* agent and shall decide the point referred and transmit a copy of [its] *his* judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the [Chief Controlling] Revenue [authority,] *Commissioner*, and the correctness of the decision of the [Chief Controlling] Revenue [authority] *Commissioner* shall not be contested in any appeal made under this Regulation.

Power to call for records.

19. The Revenue Commissioner in cases in which no appeal lies to him, or the Government may call for the record of any case if the officer by whom the case was decided appears to have exercised a jurisdiction not vested in him by law or to have failed to exercise a jurisdiction so vested or to have acted in the exercise of the jurisdiction illegally or with material irregularity, and may pass such order in the case as the Revenue Commissioner or the Government thinks fit.

Application for review of judgment.

20. Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred;

(b) by a decree or order from which no appeal is hereby allowed;

and who by the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge, or could not be produced by him at the time when the decree was passed, or order made or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason,

desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the officer who passed the decree or made the order or to the officer, if any, to whom the business of the former officer has been transferred.

Dismissal of suits, etc., instituted, etc., after the period of limitation.

~~21.~~ Subject to the provisions contained in section ~~20,~~ every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Provided that ~~a suit for registering~~ a minor ~~as a successor to a village office may be brought at any time during the minority of the claimant and provided further that~~ in the case of a person who by reason of minority is disqualified from holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Suits the cause of action for which accrued before the commencement of this Regulation.

Notwithstanding any thing herein contained, any suit the cause of action for which accrued prior to the commencement of this Regulation may be brought within three years next after the commencement of this Regulation, unless where the period prescribed for such suit by the law of limitation applicable to it hitherto shall have expired before the completion of the said three years.

Certain sections of the Limitation Act apply.

[19.] ~~22.~~ The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, ~~*mutatis mutandis*~~, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Regulation.

Power of Government to place village watchmen under Police authorities.

[20. The Government may declare that the powers of punishing village officers which are vested in the Deputy Commissioner by this Regulation shall be exercised in any specified local area by the Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or Police officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or Police

officer passed by a Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Deputy Commissioner, whose decision shall be final.]

Government may make rules on certain subjects.

[21.] *23*. (1) The Government may, by notification in the official Gazette, make rules, not inconsistent with this Regulation, in regard to the following [matters]:

(i) the division, grouping and amalgamation of villages;

(ii) the holding of enquiries and *other matters coming* under sections [4] *6* and [5] *7*, and the hearing of appeals under section [17] *16*;

(iii) [the educational qualifications, if any, required of the holders of village offices;] *matters falling under sections 8 and 9*;

(iv) the action to be taken in respect of any alienation of emoluments contrary to the provisions of section 5;

[(iv)] *(v)* the procedure to be followed in disposing of ~~applications~~ suits and appeals [from decrees or orders passed in suits] and the registers to be maintained in connection therewith;

[(v)] *(vi)* the execution of decrees and orders [passed in suits] and the taxation of costs;

[(vi)] *(vii)* the emoluments to be assigned to the holders of village offices, and the method of assessment and payment thereof;

[(vii)] *(viii)* the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them;

[(viii)] *(ix)* the custody, production and transfer of the accounts and other records kept by holders of village offices;

[(ix)] *(x)* any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Regulation.

Until such rules are made, existing rules to be in force.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto [immediately previous to the commencement of] *at the time of the passing of* this Regulation shall, so far as they are consistent with this Regulation, be deemed [to be in operation and] to have been made under the preceding sub-section.

P.T.O

SCHEDULE B.

Description.	Period of limitation.	Time from which period begins.
1. Suit for the recovery of a village office or of the emoluments of any such office.	Three years....	When the plaintiff is entitled to the possession of the office or the recovery of the emoluments or the date of the order which would become final, if no such suit be brought.
2. Appeal to the Deputy Commissioner or Assistant Commissioner.	Thirty days....	The date of the decree or order appealed against.
3. Appeal to the Revenue Commissioner.	Ninety days....	Do do
4. Application for execution of decree or order.	One year	(1) The date of decree or order. (2) Where there has been an appeal, the date of the final decree or order of the appellate court. (3) Where there has been a review of judgment, the date of the decision passed on review. (4) Where there has been a revision of the decree or order, the date of the decree or order passed on revision. (5) The date of the last application for execution made in accordance with this Regulation.
5. Application for review of decree or order.	Ninety days....	The date of the decree or order sought to be reviewed.
6. Applications not otherwise herein provided for.	Do	When the right to apply accrues.

Bill

THE MYSORE VILLAGE OFFICES ~~REGULATION OF 1908.~~

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Repeal of rules and orders; saving of rights already acquired.
3. Disposal of suits, etc., pending at commencement of Regulation.
4. Definitions—
   "Village."
   "Village Office."
   Provisos.
   "Village Officer."
   "Emoluments."
   "Deputy Commissioner."
   "Assistant Commissioner."
5. Emoluments of village offices inalienable, impartible and not liable to attachment.
   Proviso.
6. (1) Villages may be grouped, amalgamated or divided.
   (2) Selection of persons to fill new offices.
   (3) Reduction or increase of village offices or village officers.
7. Power to punish village officers; procedure to be followed; and mode of recovering fines imposed.
8. Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.
   (1) General qualifications requisite in all cases.
   (2) Succession in case of permanent vacancy.
   (3) Appointment in case of temporary vacancy.
   (4) Procedure to be adopted when successor is a minor.
9. Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.
10. Succession in the case of offices other than patel, shanbhog, etc.
11. (1) Suits for offices, for recovery of emoluments and for registry as successor. No suit for declaratory decree.
    (2) Rejection of plaint when claimant is ineligible for appointment or for registry.
12. Procedure in case of non-payment of miras to nirganti, toti or talari.
13. Power of Deputy Commissioner in regard to transfers of suits.
14. (1) Every enquiry to be deemed a judicial proceeding.
    (2) Procedure with regard to suits, etc.
15. Decrees and orders may provide for costs and shall be executed according to rules made by Government and the provisions of the Land Revenue Code.
16. Jurisdiction of Civil Courts barred.
17. (1) Appeal against decree or order of Assistant Commissioner, holder of a commission exercising powers of Assistant Commissioner and Deputy Commissioner.
    Proviso: Second appeal in certain cases and appeal to Government.
    (2) Appeal against order of Amildar or Deputy Amildar or holder exercising the powers of Amildar or Deputy Amildar.
18. Disposal of appeal by officer who passed original order.
19. Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the Chief Court.
20. Dismissal of suits, etc., instituted, etc., after the period of limitation.
    Suits the cause of action for which accrued before the commencement of this Regulation.
21. Certain sections of the Limitation Act apply.
22. (1) Government may make rules on certain subjects.
    (2) Until such rules are made, existing rules to be in force.

Schedule A. Form of Commission issued under section 7 (3).

Schedule B. Period of Limitation for suits, etc.

THE VILLAGE OFFICES BILL.

A bill to consolidate and amend the Law relating to Village Offices in Mysore.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement

1. (1) This Regulation may be called the Mysore Village Offices Regulation, 190

(2) It extends to the whole of Mysore, provided that Government may, by notification in the Official Gazette, exclude any local area from its operation and may, in like manner, amend or cancel such notification.

(3) It shall come into force from such date as may be notified by Government in the official Gazette.

Repeal of rules and orders; saving of rights already acquired.

2. On and after that date, all existing rules and orders relating to village offices shall be repealed; provided that nothing herein contained shall be deemed to affect any right acquired, or to revive any right that has ceased to exist, or to affect any act done or liabilities incurred, under the said rules and orders.

Disposal of suits etc., pending at commencement of Regulation.

3. All suits, appeals and applications pending at the commencement of this Regulation shall be heard and disposed of as if they had been preferred under this Regulation.

Definitions.

4. In this Regulation, unless there is something repugnant in the subject or context,—

"Village."

"Village", means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office."

"Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order, or with the settlement of boundaries, or other matters of civil administration pertaining to a village, whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known:

Provisos.

Provided as follows:—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may, in like manner, amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer."

"Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village office.

"Emoluments."

"Emoluments" means and includes—

(i) lands;

(ii) assignments of revenue payable in respect of lands;

(iii) fees in money or agricultural produce;

(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any village office by the Government.

"Deputy Commissioner." "Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district.

"Assistant Commissioner." "Assistant Commissioner" means an Assistant Commissioner in charge of a division of a district and includes any other Assistant Commissioner to whom cases under this Regulation have been transferred for disposal, in so far as such cases are concerned.

Emoluments of village offices inalienable, impartible and not liable to attachment.

5. The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, partitioned, or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Proviso.

Provided that in the case of lands which are not assigned as emoluments to the holder of a village office under rules framed under section 22, nothing contained in this section shall be deemed to affect transfers, partitions or encumbrances, as between different members of a hakdar's family.

Villages may be grouped, amalgamated or divided.

6. (1) The Government may, with reference to rules made in this behalf under section 22, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages; and may also direct that any village office in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist, and that new offices shall be created for the new village or villages.

Selection of persons to fill new offices.

(2) In choosing persons to fill such new offices, the Deputy Commissioner or Assistant Commissioner shall, subject to such rules as Government may make in this behalf under section 22, select the persons whom he may consider the best qualified from among the last holders of the offices which have ceased to exist or the members of their families.

Reduction or increase of village offices or village officers.

(3) The Government may also direct that the number of village offices attached to a village or the number of village officers shall be—

(*a*) reduced, and thereupon the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices;

or (*b*) increased, in which case the Deputy Commissioner or Assistant Commissioner shall select the best qualified from among the members of the families of the existing officers.

Power to punish village officers; procedure to be followed; and mode of recovering fines imposed.

7. (1) The Deputy Commissioner or Assistant Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or for incapacity or for non-residence in the village, except when such non-residence is permitted by the Deputy Commissioner, or for any other sufficient cause, provided that any order of dismissal or removal passed by an Assistant Commissioner shall be subject to the confirmation of the Deputy Commissioner.

(2) The Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine, or subject to the confirmation of the Deputy Commissioner or Assistant Commissioner, suspend any holder of a village office whether in an unalienated or alienated village for misconduct or neglect of duty.

(3) The holder of an alienated village or where there are more such holders than one, any one of them, or the agent of such holder or holders may, when duly authorized in that behalf by a commission issued by the Government in the form of schedule A, exercise in the village aforesaid and in respect of all or any particular offices specified and without prejudice to the exercise by the Deputy Commissioner,

Assistant Commissioner, Amildar or Deputy Amildar of the powers respectively vested in them by sub-sections (1) and (2), all or any of such powers of an Assistant Commissioner, Amildar or Deputy Amildar under those sub-sections, as may be conferred upon him by the commission.

(4) The officer or person taking action against a village officer under any of the preceding sub-sections shall hold the enquiry himself, record his proceedings in writing and furnish a copy of his order to such village officer. When such order is passed by the holder of a commission under sub-section (3), the proceedings together with a copy of the order shall also be forthwith reported by him to the Deputy Commissioner or Assistant Commissioner through the Amildar or Deputy Amildar for information and record or for confirmation, as the case may be.

(5) The Deputy Commissioner may declare, under rules made under section 22, that the dismissal or removal of any village officer, whether in an unalienated or alienated village and whether ordered by himself or confirmed by him, shall entail a forfeiture of the right of succession, of all undivided members of the family of the officer so dismissed or removed.

(6) Fines and suspensions under sub-sections (1), (2) and (3) shall be subject to such limitations as may be laid down by Government by rules made under section 22.

(7) All fines imposed under this section shall be recoverable as arrears of land revenue, the recovery in the case of fines payable by village officers in alienated villages being made by the Amildar or Deputy Amildar and credited to the public treasury.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

8. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex;

(*b*) has not attained majority, that is, completed 18 years of age;

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section 22;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner or Assistant Commissioner, disqualifies him for holding the office;

(*f*) has been adjudged by the Deputy Commissioner or Assistant Commissioner after a summary enquiry held in accordance with the provisions relating to summary enquiries contained in the Mysore Land Revenue Code, IV of 1888, to be of general bad character.

Provided that, in the case of nirganti, toti and talari, the Deputy Commissioner or Assistant Commissioner may, for special reasons, make an exception in favor of females otherwise competent.

Succession in case of permanent vacancy.

(2) Subject to the provisions of sub-section (1) and save as hereinafter separately provided in the case of minors, and subject also to any declaration made by the Deputy Commissioner under section 7, the succession in the case of a permanent vacancy (*a*) shall be regulated by the ordinary provisions of the law applicable to the last holder, provided that it shall devolve on a single heir and that where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, preference shall be given to the eldest member of the eldest branch among those persons, and (*b*) failing these, shall devolve on one of the duly recognised hakdars in the order of their importance as determined under rules made by Government under section 22 or one of his heirs

according to the order of precedence laid down above. In the absence of persons entitled as above under (*a*) and (*b*), the Deputy Commissioner or Assistant Commissioner may appoint any other person duly qualified under sub-section (1), subject to such appointment, unless sooner determined by a decree in a suit hereinafter provided for, being cancelled in favor of a person falling under (*a*) or (*b*), in the event of such person being forthcoming, at the end of three years from the date of the appointment.

Appointment in case of temporary vacancy.

(3) Where an office has become vacant by the dismissal, removal or suspension of the last holder, the Deputy Commissioner or Assistant Commissioner may, if he thinks proper, direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1), who is not an undivided member of the family of such holder; but in making the selection, the directions contained in sub-section (2) shall as far as possible be conformed to.

Provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-section (2).

Procedure to be adopted when successor is a minor.

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner or Assistant Commissioner shall register the minor as the successor of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as successor, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as successor under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions contained in sub-section (2).

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

9. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an alienated village, the holder of such village shall fill up the vacancy in accordance with the principles contained in section 8, subject to the confirmation of the Deputy Commissioner or Assistant Commissioner.

If the appointment be not made by the holder of the village within a given time, it shall be competent to the Deputy Commissioner or Assistant Commissioner to make such appointment.

Succession in the case of offices other than patel, shanbhog, etc.

10. The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari shall devolve in accordance with the law or custom applicable thereto; and, in the absence of any such law or custom, in accordance with the provisions of sections 8 and 9, respectively.

Suits for offices, for recovery of emoluments and for registry as successor.

11. (1) Any person may sue before the Deputy Commissioner or Assistant Commissioner for any village office in an unalienated or alienated village or for recovery of the emoluments of any such office, on the ground that he is entitled under sections 8, 9 or 10 of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner or Assistant Commissioner to be registered as successor of the last holder of any such office.

No suit for declaratory decree.

Provided that no suit shall be entertained for a mere declaratory decree.

Rejection of plaint when claimant is ineligible for appointment or for registry.

(2) If, at any time before the completion of the trial of a suit preferred under this section, it appears to the Deputy Commissioner or Assistant Commissioner that the claimant is not eligible for appointment on any of the grounds referred to in sub-section (1) of section 8, he shall pass an order rejecting the plaint.

12. On a complaint being preferred by a nirganti, toti or talari of non-payment of the *miras* payable under rules framed under section 22 by any holder of land or other person from whom such contribution is due, the Amildar or the Deputy Amildar of the taluk or sub-taluk shall hold a summary enquiry in the manner laid down in the Land Revenue Code, IV of 1888, and pass a decision thereon; provided that the complaint is made in the year in which such *miras* is due or in the year immediately following it.

Procedure in case of non-payment of *miras* to nirganti, toti or talari.

13. The Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner, or transfer any suit from his own file or that of an Assistant Commissioner to the file of another Assistant Commissioner, for disposal.

Power of Deputy Commissioner in regard to transfers of suits.

14. (1) Every enquiry under this Regulation shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Every enquiry to be deemed a judicial proceeding.

(2) The procedure to be followed with regard to suits, appeals and applications under this Regulation shall be regulated by rules made by Government under section 22.

Procedure with regard to suits, etc.

15. Decrees and orders passed in suits and enquiries under this Regulation may provide for payment of costs according to such scale and subject to such rules as may be prescribed by Government under section 22, and shall be executed in accordance with rules to be made under the said section and the corresponding provisions of the Land Revenue Code.

Decrees and orders may provide for costs and shall be executed according to rules made by Government and the provisions of the Land Revenue Code.

16. No Civil Court shall exercise jurisdiction in respect of any claim to succeed to, or to the possession of, any village office, or the emoluments thereof, or any question as to the rate or amount of such emoluments; but, when the claim is as between different members of a hakdar's family of patel or shanbhog in respect of land entered in the Government records or otherwise shown as service inam land connected with the office of patel or shanbhog, such claim may be entertained and adjudicated upon by a Civil Court.

Jurisdiction of Civil Courts barred.

17. (1) From every decree or order passed under this Regulation by an Assistant Commissioner and from every order passed by the holder of a commission exercising any of the powers of an Assistant Commissioner under sub-section (3) of section 7, an appeal shall lie to the Deputy Commissioner; and from every decree or order passed by a Deputy Commissioner, an appeal shall lie to the Revenue Commissioner. The decision on appeal of the Deputy Commissioner or the Revenue Commissioner, as the case may be, shall be final.

Appeal against decree or order of Assistant Commissioner, holder of a commission exercising powers of Assistant Commissioner, and Deputy Commissioner.

Provided that, in cases of dismissal or removal under section 7 and in suits under section 11, a second appeal from the decision on appeal of the Deputy Commissioner shall lie to the Revenue Commissioner whose decision on such appeal shall be final, and provided further that nothing contained in this Regulation shall affect the right of appeal to Government under section 210, sub-section (2), of the Mysore Land Revenue Code.

Second appeal in certain cases and appeal to Government.

(2) From every decision or order passed by an Amildar or Deputy Amildar under sub-section (2) of section 7 or section 12, and from every order passed by the holder of a commission exercising any of the powers of an Amildar or a Deputy Amildar under sub-section (3) of section 7, an appeal shall lie to the Deputy Commissioner or Assistant Commissioner, whose decision shall be final.

Appeal against order of Amildar or Deputy Amildar or holder exercising the powers of Amildar or Deputy Amildar.

18. If the officer to whom an appeal is presented under this Regulation happens to be the officer who in another capacity passed the decision which is appealed against, he shall report the fact to the authority to whom an appeal from his decision would lie, and such authority shall dispose of the appeal in accordance with law.

Disposal of appeal by officer who passed original order.

19. The Government and any revenue officer not inferior in rank to an Assistant Commissioner may call for and examine the record of any enquiry or the proceedings of any revenue officer subordinate to it or him and may pass such order thereon as shall seem fit; and the Government may also refer questions for the decision of the Chief Court. The provisions of the Land Revenue Code, IV of 1888, as regards revision of proceedings and reference to the Chief Court shall apply to revision of proceedings and reference to the Chief Court under this section.

Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the Chief Court.

Explanation.—For purposes of revision of orders passed by the holder of a commission under sub-section (3) of section 7, such holder shall be deemed to be an Assistant Commissioner or an Amildar or a Deputy Amildar, according as he is invested with the powers of an Assistant Commissioner or an Amildar or a Deputy Amildar, respectively, under the abovementioned sub-section.

20. Subject to the provisions contained in section 21, every suit instituted, appeal presented and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed although limitation has not been set up as a defence.

Dismissal of suits, etc., instituted, etc., after the period of limitation.

Provided that, in the case of a person who by reason of minority is disqualified from holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Notwithstanding anything herein contained, any suit the cause of action for which accrued prior to the commencement of this Regulation, may be brought within three years next after the commencement of this Regulation, unless where the period prescribed for such suit by the law of limitation applicable to it hitherto shall have expired before the completion of the said three years.

Suits the cause of action for which accrued before the commencement of this Regulation.

21. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, so far as may be, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Regulation.

Certain sections of the Limitation Act apply.

22. (1) The Government may, by notification in the official Gazette, make rules not inconsistent with this Regulation in regard to the following:—

Government may make rules on certain subjects.

(i) the division, grouping and amalgamation of villages and the selection of persons to fill the offices newly created under section 6;

(ii) the holding of enquiries and other matters coming under sections 6 and 7, and the hearing of appeals under section 17;

(iii) matters falling under sections 8 and 9;

(iv) the action to be taken in respect of any alienation of emoluments contrary to the provisions of section 5;

(v) the procedure to be followed in filing and in disposing of suits, appeals and applications and the registers to be maintained in connection therewith;

(vi) the execution of decrees and orders and the taxation of costs;

(vii) the emoluments to be assigned to the holders of village offices, and the method of assessment and payment thereof;

(viii) the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them;

(ix) the custody, production and transfer of the accounts and other records kept by holders of village offices;

(x) any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Regulation.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto at the time of the passing of this Regulation shall, so far as they are consistent with this Regulation, be deemed to have been made under the preceding sub-section.

Until such rules are made, existing rules to be in force.

SCHEDULE. A.

Form of commission to be issued to the holder of an alienated village or to one of several holders thereof or to an agent under section 7 (3).

SEAL.

The Government of Mysore is pleased to confer on you (holder, one of several holders, or agent, as the case may be) power to punish village officers in the village of.....to the extent described below:—

[Here enter description].

SCHEDULE B.

The within delegated power is vested in you during the pleasure of and subject to recall by the Government of Mysore.

Secretary.

Description.	Period of limitation.	Time from which period begins.
1. Suit for the recovery of a village office or of the emoluments of any such office.	Three years....	When the plaintiff is entitled to the possession of the office or the recovery of the emoluments, or the date of the order which would become final, if no such suit be brought.
2. Appeal to the Deputy Commissioner or Assistant Commissioner.	Thirty days	The date of the decree or order appealed against.
3. Appeal to the Revenue Commissioner.	Ninety days....	Do do
4. Application for execution of decree or order.	One year	(1) The date of decree or order. (2) (Where there has been an appeal) the date of the final decree or order of the appellate court. (3) (Where there has been a review of judgment) the date of the decision passed on review. (4) (Where there has been a revision of the decree or order) the date of the decree or order passed on revision. (5) The date of the last application for execution made in accordance with this Regulation.
5. Application for review of decree or order.	Ninety days....	The date of the decree or order sought to be reviewed.
6. Applications not otherwise herein provided for.	Do	When the right to apply accrues.

XVIII

SUPPLEMENT TO

THE MYSORE GAZETTE

Published by Authority.

MYSORE, THURSDAY, OCTOBER 15, 1908.

Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Public Offices, Mysore, on Thursday the 1st October 1908 at 3 P.M.

PRESENT.

V. P MADHAVA RAO, ESQ., C.I.E., Dewan (Presiding).

Ex-officio Members.

T. ANANDA RAO, ESQ., B.A., (First Councillor).

K. P. PUTTANNA CHETTY, ESQ., (Second Councillor).

Additional Members.

Official.

RAJAKARYAPRAVINA A. RANGASWAMI IYENGAR, ESQ., B.A., B.L.

H. J. BHABHA, ESQ., M.A.

RAO BAHADUR M. MUTHANNA, ESQ.

M. KANTHARAJ URS, ESQ., B.A.

S. NARAYANA RAO, ESQ.

K. S. CHANDRASEKHARA AIYAR, ESQ., B.A., B.L.

Non-official.

RAJAMANTRAPRAVINA C. SRINIVASIENGAR, ESQ.

V. N. NARASIMMIYENGAR, ESQ.

M. C. RANGIENGAR, ESQ., B.A.

B. NAGAPPA, ESQ., Bar-at-law.

SYED AMIR HASSAN, ESQ.

C. S. BALASUNDARAM IYER, ESQ., B.A. (Secretary).

The Secretary reported that the Mysore Newspapers Regulation, III of 1908, received the assent of His Highness the Maharaja on the 8th day of August 1908.

Bill further to amend the City of Mysore Improvement Regulation, III of 1903.

MR. T. ANANDA RAO moved for leave to introduce the above bill, and in doing so said:—The object of the short amendment to the City of Mysore Improvement Regulation, III of 1903, is to vest in the Board of Trustees the powers exercised by the Mysore City Municipal Council under the new Mysore Municipal Regulation, VII of 1906, in regard to the drainage, conservancy and sanitation of the areas brought under the control of the Trust Board. Opportunity has also been taken to propose an amendment to Section 4 relating to the constitution of the Trust Board by which the Board will have 9 Trustees instead of 8. The Board thus constituted will include the Mysore City Health Officer and the Deputy Sanitary Commissioner in the place of the Civil Surgeon.

MR. K. P. PUTTANNA CHETTY seconded the motion.

The motion was put to the Council and carried.

Bill to provide a law relating to Treasure-Trove in Mysore.

RAJAKARYAPRAVINA MR. A. RANGASWAMI IYENGAR moved for leave to introduce the above bill, and in doing so said:—Under Rule 30 of the rules for the conduct of business of this Council, I rise to move for leave to introduce a bill to provide a law relating to Treasure-Trove in Mysore. The proposed bill and its statement of objects and reasons have been published with Government Notification No. J. 2709—Legis. 19 of 1906, dated 6th March 1907. The statement clearly explains the need for the legislative measure in question and the changes introduced in the existing rules and the Indian Treasure-Trove Act, VI of 1878, the provisions of which have been generally adopted. It is scarcely necessary for me to take up the time of the Council especially at this stage by going more fully into details, and I request accordingly that the bill may be allowed to be introduced.

MR. K. S. CHANDRASEKHARA AIYAR seconded the motion.

The motion was put to the Council and carried.

Bill for the Regulation of the Possession and Sale of Poisons in Mysore.

MR. K. P. PUTTANNA CHETTY moved for leave to introduce the above bill, and in doing so said:—Mr. President,—The measure I am entrusted with, deals with the possession and sale of poisons within the State. The question of restricting, by legislation, the possession and sale of poisons has been under the consideration of Government ever since 1894. It was then suggested to Government that the Bombay Act, VIII of 1886, might be introduced into Bangalore. It was however understood that the Act did not efficiently serve the object which its framers had in view. Meanwhile, the Government of India had under consideration a proposal for an enactment on the subject for the whole of India. This Government deferred taking further action till the Government of India passed the Poisons Act. Now that the Poisons Act (I of 1904) has been enacted and rules have been framed under it by almost all the Local Governments in British India, it is thought desirable to introduce a similar measure in Mysore.

I need not explain to you in any detail the necessity for such a measure. The ease with which poisons can be procured and the dastardly purposes to which they can be, and have been, used make it necessary that Government should exercise, in the interests of the people, some general control over the possession and sale of poisons. In the absence of such a measure, it is possible for any one to get hold of any quantity of poisons for any purpose and to escape notice or detection. The object of the present measure is, therefore, to provide for such a general control. The scope of the bill is very limited. It is only a

permissive measure, empowering Government to make rules for the objects specified therein. Its success will therefore depend upon the rules framed and upon the manner of enforcing them.

I shall now briefly advert to a few of the provisions of the bill. Clause 2 empowers Government to control the sale of poisons within Municipalities. Clause 3 authorizes the prohibition of the importation of white arsenic except under a license. This poison is particularized, because it is commonly used in criminal cases of poisoning and is also easily procurable. Further, by Clause 6 power is taken to apply the provisions relating to white arsenic to any other poison. Clause 10 affords protection for *bona fide* dealing with poison by professional men who have to employ them in the ordinary course of their business.

I must however refer to one point in some detail on which our bill departs from the British Indian Act. And that is with regard to the power vested in Government under Clause 10 (2) to make rules for the control of transactions by chemists and druggists and other professional men with regard to certain poisonous drugs to be specified by Government. Our recent experience has demonstrated the necessity for such a provision. I need not bring to your recollection the facts connected with the atrocious series of murders recently brought to light in Bangalore. How the miscreants used chloroform—primarily invented for the relief of pain—for effecting their nefarious objects and how easily they were able to obtain it, these are well known facts. It is indeed regrettable that such poisonous drugs, which may be used with fatal results, should be easily procurable from chemical shops, and it is, therefore, proposed to take power under the bill to provide that with regard to poisonous drugs to be specified by Government the medical practitioners and other professional people should maintain registers with full particulars and allow examination of the registers and the poisons exposed for sale.

I now move that leave be granted to introduce the bill.

Mr. M. Kantharaj Urs seconded the motion. The motion was put to the Council and carried.

Bill to amend the Mysore Registration Regulation, I of 1903.

Mr. T. Ananda Rao:—Sir,—I beg to move that the amendment of Section 88 of the Mysore Registration Regulation be taken up and read in Council. As already stated, it is for the purpose of exempting the Deputy Post Master-General of Madras from attending at Registration offices for the registration of documents to which he is a party. In British India, he is exempted from appearance just as all British Government Officers are exempted in British India and as all Mysore Government Officers are exempted in Mysore.

Mr. S. Narayana Rao seconded the motion.

The motion was put to the Council and carried. The bill was then finally considered in Council and was unanimously adopted by it.

The Village Tank Panchayet Bill.

Mr. K. P. Puttanna Chetty moved for the introduction and reading of the above bill, and in doing so said:—Sir, I beg to move that the Village Tank Panchayet Bill, which has been published in the Gazette of the 10th September, be read in Council. The object of the bill and the main principles involved in the measure are sufficiently clear from the statement of objects and reasons which has also been published, and it is hardly necessary for me to explain these at any great length.

To an agricultural country like Mysore, the importance of its irrigation works cannot be overrated; and, as might have been expected, the subject of tanks has engaged the attention of the Government for several decades past. There are in the State nearly 40,000 tanks, large and small, about 30,000 of which yield revenue to Government. Every valley and every drainage area has had a bund thrown across it for storing the drainage of the country, so

much so that, as observed by a great engineering authority, it is extremely difficult to find a site suitable for a new tank. It was therefore recognised at a very early stage that little remained to be done by the Government in the matter of irrigation facilities beyond restoring and maintaining the old works.

To take up first the subject of maintenance of tanks, it was found that the majority of the tanks were in a state of the utmost neglect. This was due to the customary obligations of the raiyats to keep their tanks in order not being enforced. All that a raiyat need be called upon to do in the way of maintenance of tanks is to throw a basketful of earth here and there, to fill in the gullies on the slopes of the bunds, remove prickly pear and rank vegetation from the bunds, and such small items of work, timely attention to which would save the tank from falling into disrepair. It is impossible for any Government agency to attend to these details; and, as a result of not enforcing the raiyats' obligations, it was found that tanks were every day hopelessly getting into disrepair. The Government therefore found that it was time the customary obligations of the raiyats were enforced, and accordingly in the year 1873 they passed the Tank Maintenance Rules for enforcing these obligations. It is under these rules, as slightly modified by a Government Notification issued in December 1904, that the maintenance of tanks by the raiyats is at present regulated.

The rules of 1873 refer only to tanks which are already in a state of efficient repair or have been restored and brought to a standard of safety and formally handed over to the raiyats for upkeep. As regards tanks which had not been restored to a standard of safety, it was considered that raiyats could not reasonably be called upon to restore or repair works which had been neglected for a number of years. The question of the repair and restoration of these neglected tanks engaged the anxious consideration of the Government for years, but no definite steps were taken in the matter until 1887, when a distinction was drawn between tanks yielding a revenue of over Rs. 300, which were called major tanks, and those yielding a revenue of Rs. 300 and under, which were called minor tanks. Under this classification there are 2,388 major tanks and 26,682 minor tanks in the State. The restoration of the former was to be carried out by the Public Works Department, subject to the levy of contribution from the raiyats. We are not, however, concerned, in the bill before us, with the subject of the restoration of major tanks, and I shall not refer to it again. As regards the minor tanks which form the great bulk of the tanks in the State and which have aptly been described as "the life of the country," these were, under the scheme sanctioned in 1887, to be restored by the Government and the raiyats jointly, the Government undertaking to do the required stone and masonry work, whenever the raiyats carried out the earthwork. After restoration, the maintenance of these tanks was to be enforced under the Rules of 1873. This scheme known as the Minor Tanks Restoration Scheme sanctioned in 1887 is still in operation, and it is under it that minor tanks throughout the State are now being restored.

These, then, are the rules in force in the State in regard to the two matters dealt with in the bill before us, the restoration and repair of minor tanks and the maintenance of all restored tanks, major and minor, *viz.*, the Minor Tank Restoration Scheme of 1887, in regard to the former and the Chief Commissioner's Rules of 1873, as amended in 1904, in regard to the latter. Let us consider what the results have been of the operation of these rules during the past several years.

Notwithstanding all the efforts made by Government for the proper preservation and restoration of these irrigation works, we cannot conceal from ourselves the fact that a large number of them are still in complete ruin and that many of the restored tanks themselves have been allowed to again fall into disrepair. Under the Minor Tank Restoration Scheme, altogether 2,304 tanks have been repaired since the scheme was started, or on an average of 110 per year. At this rate of progress it will be more than two centuries before all the minor tanks in the State are repaired. And as regards maintenance of restored tanks it has been a frequent complaint that the village officers on

whom the duty of enforcing the tank maintenance rules devolves have been slack in the performance of their duty, and that the higher Revenue officers have also been negligent in the matter. There have been many instances in which the raiyats neglected to do the necessary earthwork and the Public Works Department has had to undertake for a second time the restoration of such tanks to preserve them from complete ruin. Much has been done during the past few years to remedy this unsatisfactory state of affairs by the issue of orders insisting on the personal responsibility of Revenue officers to see to the proper maintenance of tanks.

While it is to be hoped that these measures will remedy matters to some extent, it appears to Government that something more is necessary before a radical improvement of the situation can be looked for. I do not say that the principle of the existing rules which insist on the responsibility of the raiyats for the maintenance of tanks once restored requires re-consideration—I have already shown that it is impossible for any but the raiyats interested in the tanks to maintain them—or that any material alterations are necessary in the scheme under which the restoration of minor tanks is carried out by the Government and the raiyats jointly. In fact a Committee appointed by Government in the year 1903 to consider the whole question was of opinion that no material changes in these rules were necessary. The rules are good enough so far as they go, but there are two circumstances which militate against their efficient working. The first is the want of a spirit of co-operation among the raiyats and the second is the absence of sufficient inducements to make them take a real and personal interest in their tanks. Undue importance was at one time given to the responsibility of Government for the upkeep of the tanks, the raiyats' liability being altogether ignored, and when Government found that its costly agency could not possibly undertake the management of all the tanks in the State, the raiyat was called upon to take charge of the majority of the tanks. But the raiyat had by this time lost all traditions of combination for works of public utility, and it is easy to see that without such combination it is impossible that the rules relating either to the maintenance of restored tanks or to the repair and restoration of minor tanks, both of which require concerted action on the part of the raiyats, can be satisfactorily carried out. It is an every-day experience of Revenue officers that the maintenance works required to be done by raiyats to tanks are often entirely neglected by reason of the obstinacy or default of a few recalcitrant raiyats, often only one or two. Again it often happens that, when a tank is to be restored, the majority of the villagers agree to pay the contribution demanded or to do the necessary earthwork, but the proposal falls through on account of the obstructive attitude of an unwilling minority. The first thing therefore to be done, if the present unsatisfactory state of things is to be remedied, is to educate the raiyats to unite for works of common benefit.

The second defect in our system of tank management to which I have referred is the absence of sufficient inducements to make the raiyats take any interest in the proper upkeep of their tanks. The maintenance of tanks has hitherto been treated as a matter in which Government is solely concerned and for which Government agency is alone responsible, while the principal factor in the problem, namely, the raiyat owning lands under the tanks, has been more or less ignored. The raiyats' part has been to unwillingly and sullenly carry out, if he could not evade, what was demanded of him by the village officers and revenue officers. Nothing has been done to interest the raiyat in the tank or to secure his willing and intelligent help and co-operation in the matter of its restoration and maintenance. In addition to educating the raiyats to co-operate with one another in their communal affairs, it is therefore necessary that an effort should be made to create in them an interest in the maintenance of their tanks. And if this is to be done there should be no feeling of compulsion when the raiyats have to do any work to their tanks. They should be given a substantial voice in the measures necessary for the maintenance of the tanks. The powers to execute the necessary works should be given to them, instead of their being pressed and compelled to do those works; and the

control over the funds that may be set apart for the purpose of repairing and maintaining tanks should also be transferred to them. They should be made to regard the tanks as their own and be induced to attend to their repairs and maintenance with the same readiness and interest as they would show in renewing the thatch to their houses or repairing the hedge of their gardens. In short, the raiyats' interest in the tanks can best be secured by allowing them a certain measure of self-government in respect of the tanks. It is with this view that it is proposed to constitute Village Panchayets for the control of tanks, composed of the Patel and Shanbhog of the village and three or more members elected by the raiyats from among themselves; and the object of the present bill is to authorise the constitution of such panchayets and to lay down their powers and duties. In giving over the control of tanks to the raiyats, their responsibilities and duties remain just the same as before. The bill does not relieve them of any of their existing obligations in regard to the maintenance, repair or restoration of tanks, nor does it impose any additional obligations on them. The bill only alters the agency by which these obligations are enforced. In place of the purely official agency now existing, the bill substitutes the agency of panchayets composed mostly of members elected by the raiyats themselves.

I should here like to remind the members of the Council of the fact that the constitution of Village Panchayets to deal with village tanks is not a new idea now started for the first time. On the contrary, there is strong evidence to show that village committees for the supervision and maintenance of tanks existed in South India from very early times. In the report of the Archæological Survey of British India for the year 1903-04, there is an interesting monograph from the pen of Mr. V. Venkayya about "Irrigation in Southern India in ancient times," in the course of which the writer makes some remarks about the committee for supervision of tanks which, he says, each village in the Tamil country seems to have had in ancient times, and which we may safely assume was to be found in the Kanarese country as well. "At Uttaramallur in the Chingleput District," says Mr. Venkayya, "there are two inscriptions belonging to the beginning of the 10th century, which furnish full details about the constitution of village assemblies and the mode of selection of members to them." . . . "We are there told that the village assembly consisted of several committees, of which the committee for supervision of tanks was one. This body consisted of six members who held office for 360 days and then retired. If any one who served on the committees was guilty of any offence, he was removed at once. The duties entrusted to these committees are nowhere clearly laid down. But those of the committee for the 'supervision of tanks' with which alone we are at present concerned, do not require any detailed explanation. It may be presumed that all endowments made in favour of tanks were entrusted to them and that they had to invest money endowments in the best possible way. We may suppose that they utilised them in reclaiming waste land and cultivating it, in order to pay the interest on the endowment from the produce. They had apparently to look after the cultivation of lands granted to tanks. The income from both these sources had to be applied to meet the charges of the annual or periodical removal of silt in tanks and for repairs so far, I suppose, as funds would permit. Fines to be credited to the tank fund were levied by them." . . . "The king does not appear to have had any direct control over the upkeep of tanks. He could of course enforce the obligations incurred by village assemblies as trustees of endowments made for tanks." It will be seen from this that in former times the control of tanks vested not in the Government but in the village community, and that this control was exercised in a well-organised and systematic manner, but the information that we now possess does not enable us to say how or when this ancient indigenous institution ceased to exist.

The question may be raised whether it is wise to hand over the numerous irrigation works in the State on which so much of the revenue of the State and the prosperity of the people depend, to panchayets of villagers. Under the existing rules, the Revenue officers can compel the raiyats by coercive processes

to carry out the maintenance and repair of tanks. In spite of this power in the hands of the Revenue officers maintenance and repairs have been neglected. Will the raiyats show any more zeal in the matter when the enforcement of the rules is handed over from the Deputy Commissioner to their own panchayets and when the Deputy Commissioner can exercise coercion only on the application of the panchayets? This question has been asked and my answer to this is that the Government have every confidence that the proposed scheme will revive a communal spirit which will effect what any amount of coercion on the part of the Revenue officers has failed and must fail to achieve. But the Government fully recognize the fact that it is possible that they may be disappointed in their expectations; and, having regard to the enormous importance to the State and the people of the material interests dependent upon the upkeep of the tanks, they do not propose that the new scheme should be brought into force throughout the State at once. As explained in the statement of objects and reasons, the bill does not contemplate the constitution of panchayets compulsorily in places where the villagers do not wish to have them. The panchayets are to be formed only in villages where a majority of not less than two-thirds of the villagers wish to have them. And even where the majority of villagers decide to have panchayets, Clause 3 of the bill introduces a further limitation by laying down that panchayets are to be constituted only in places where the Government may consider it expedient to do so. The scheme will therefore be introduced only in villages where the Government may be satisfied that the conditions are favourable to its introduction. There should on the one hand be intelligent villagers who can co-operate for objects of common good, and on the other hand Amildars and Deputy Commissioners who are capable of working the scheme with zeal and sympathy. I fear that, with the disintegrating influences of modern civilisation, the factions existing in numerous villages, and the declining personal influence of the village officers and of the Amildars, it is only in a few villages that these conditions can, for some years at least, be found to exist. Far from there being therefore any danger of all or the majority of the tanks in the State being left entirely to the management of Village Panchayets who may or may not keep them in order, the problem which the Government will have to face when the bill is passed into law will be whether there are many places in which it could be successfully worked. And even in the few places where the panchayets may be constituted, clause 17 of the bill provides a remedy in the case of incompetency, default or abuse of powers on the part of panchayets by empowering Government to supersede the panchayets permanently or for a time. I may assure the Council that the working of the scheme will be most carefully watched by the Government and that they will not lose sight of the necessity to take careful stock of the position at short intervals in order to bring clause 17 into operation where necessary to prevent further deterioration of tanks which may have been neglected by panchayets.

Turning now to the powers and duties intended to be vested in the Tank Panchayets, it will be seen that as an immediate consequence of the constitution of a panchayet in a village, the enforcement of the Tank Maintenance Rules in that village will thereafter vest in the panchayet; and, as a corollary to this, the panchayet will have the power, which now vests in the village patel and the hobli shekdar or Revenue Inspector, to apportion the work required for the maintenance of the tank or tanks in the village among the raiyats according to their respective obligations; and, if a raiyat fails to do the work that is allotted to him or prefers to commute his quota or labour into a money payment, the panchayet will itself get the work done out of the funds at its disposal and recover the cost from the raiyat. The duty of getting work done which a raiyat fails to do now rests with the patel of the village; but, as the patel holds no funds for the purpose, this arrangement has not been found to be satisfactory in practice. Besides, when the patel by himself gets the work done, questions are likely to arise as to the cost actually incurred, but when the duty is entrusted to a panchayet of the leading raiyats their decision in such matters will be accepted without question.

The power to grant the beds of tanks for temporary cultivation of quick-growing crops is at present exercised by the Amildar and the Deputy Commis-

sioner, and is proposed under clause 12 of the bill to be transferred to the Tank Panchayet. Clause 13 provides that in order to avoid the waste of water that may be caused by different raiyats commencing the sowing of wet crops at different times, the panchayet may decide on the time when such sowing operations should be commenced and also empowers the panchayet to regulate the issue of water from the tank. The next clause of the bill, clause 14, also relates to the regulation of the issue of water from tanks, but it introduces an important innovation. This clause provides that a Tank Panchayet specially empowered by Government in this behalf with the consent of a majority of not less than two-thirds of the raiyats whose interests are affected may, in any year, having regard to the quantity of water available in the tank, impose such restrictions as it may consider necessary on wet cultivation below the tank. What now happens in seasons of short rainfall is that all the raiyats holding wet lands under a tank put their lands under wet cultivation, even when it is quite certain that the supply of water in the tank will not suffice for them all, with the result that there is a general scramble for water and all of them suffer from shortage, if not total failure, of crops. Similarly, there is now no restriction against any raiyat holding land under a tank planting sugarcane anywhere below the tank. The result is that sugarcane is planted in small patches here and there, and as this crop requires water nearly all the year round, there is considerable waste of water. To remedy this serious defect in the existing system, this clause provides that a panchayet specially empowered by Government as mentioned above may decide what extent out of each wet holding shall be allowed to be cultivated with wet crops, and, as for the cultivation of sugarcane, to select a suitable piece of land as near the sluice of the tank as possible and parcel it out among the different raiyats who may be desirous of cultivating sugarcane, and if the water in the tank is insufficient even for this to prevent such cultivation altogether. If, in accordance with a decision of the panchayet under this clause, any holder of wet land is not allowed water to irrigate his land and is prevented from raising wet crops thereon, it is proposed to allow a remission of half the assessment on the land. This is the most important provision of the bill.

Several questions are likely to be raised in connection with these provisions. In the first place, is it likely that a majority of wet land holders in any village will be willing to put it in the power of the panchayet to prevent the supply of water for irrigating their lands? Secondly, will the Government be justified in granting a remission of half assessment in such cases? Thirdly, will not this concession entail a serious loss of revenue to the State and will it not lead to abuse by encouraging the holders of wet lands to put their lands out of cultivation in order to secure the remission of half the assessment? To take up the last of these questions first, I think it may confidently be asserted that the panchayet or, for the matter of that, any raiyat will not put wet lands out of cultivation merely for the sake of obtaining a remission of half the assessment It is well known that the Government assessment on wet lands represents but a small proportion of the income from the lands, and it is not to be supposed that anybody will willingly forego the profits to be derived from wet cultivation except for good and sufficient reason. There need not therefore be any fear of any serious loss of revenue to the State or of the concession leading to any abuse.

The second question is somewhat more difficult, *viz.*, whether the State would be justified, in view of its settlement system, in granting remissions in cases where wet crops cannot be raised on account of insufficiency of water. In Mysore we have followed the Bombay system of settlement under which wet lands are classed with reference to the capacity of the tanks to supply them with water for irrigation, and the assessment on them is fixed with reference to the average of a series of years, good and bad, and making sufficient allowance for occasional deficiencies of rainfall and other vicissitudes. Under this system the Government is not bound to grant either full or partial remission in bad years and the proposed system of granting remissions may therefore be objected to on the ground that it will affect the integrity of the existing settle-

ment. With reference to this I may say that, while I am prepared to hold that a system of settlement, under which a soil assessment and a water assessment are separately imposed on wet lands and the water assessment is remitted when no water is given for irrigation, has the advantage of simplicity and elasticity and may therefore be preferable to our existing system, it is now too late in the day to think of adopting such a system, and the Government have no intention of disturbing the existing system of settlement; but, they cannot shut their eyes to the fact that, in spite of all the care taken by the Survey and Settlement Department in classifying and assessing lands, more land has sometimes been entered in the *atchkat* of a tank than can properly be irrigated by it, and that although no doubt the assessment fixed on the basis of the average of a number of years works out fairly and equitably in the long run, the vicissitudes of the season often cause hardship in individual cases and in particular years; and, while the Government is not bound to grant full or partial remission in bad years, they have as a matter of fact been giving such remissions in cases of widespread drought. The present proposals go a step further in the same direction. Although no remission is claimable as a matter of right in cases where wet crops cannot be raised on any lands on account of insufficiency of water in a tank, yet as a concession and as an incentive to the raiyats to invest their panchayets with the useful powers contemplated in this clause, the Government propose to allow half remission in all cases where wet lands are thrown out of cultivation under the orders of a panchayet, treating them as analogous to the case of wet lands under tanks which have breached. And this brings me to the question whether the raiyats are likely to agree to put such a power in the hands of the panchayets. It is true that the people have almost lost the capacity for combined action, which implies readiness to make small personal sacrifices for the common good, and it is difficult to say how far the raiyats in a village, especially those holding lands at a distance from the sluice of the tank, will be willing to abide by a decision of the panchayet that in view of the insufficiency of water they should not raise wet crops upon any or all their lands; but, as observed in the statement of objects and reasons, if they are prepared to accept such a decision and show some self-restraint, this will be a measure of the extent to which the spirit of combination and self-sacrifice, which the Government wish to revive, has been brought into existence.

I have already referred to the fact that if the raiyats' personal interest in the tank is to be evoked, the control of the funds set apart for the repair and maintenance of tanks should be entrusted to them. It is therefore proposed that these funds, *viz.*, money payments from the raiyats in lieu of labour and a portion of the irrigation cess fund collected in the village, should be credited to a fund called the Tank Fund to be controlled by the panchayet. As an additional inducement to the raiyats to constitute panchayets, it is also proposed that several items of receipts which are now credited to the general revenues of the State, as for instance, the sale proceeds of the right of fishing in the tank and of the right of grazing in the tank bed, etc., should also be credited to the Tank Fund. These items will go some way towards reducing the cost which each raiyat would have otherwise to incur. Any advance or loan which the panchayet may obtain from the Government is also to be credited to this fund.

The only other clause of the bill to which I need now refer is clause 15 which deals with the construction, restoration and improvement of minor tanks. Under the existing system, as already explained, Government does not undertake such construction, restoration or improvement unless the raiyats come forward and do the earthwork, when the Government gets the masonry and stone work executed. This clause lays down that if the panchayet undertakes to execute such construction, restoration or improvement, the Government may entrust to the panchayet all the work required with the exception of stone and masonry work which will be done at the cost of Government. It is also laid down that the Deputy Commissioner may at his discretion entrust the execution of masonry and stone work also to the panchayet.

I have briefly explained the main principles underlying this measure, and it is unnecessary at this stage to go into its provisions in detail.

We hear so much in these days about the disappearance of the old village communal system of the country, and the Governments both of British India and of the Native States have frequently been asked to try to revive the ancient system. Here, in Mysore, we have had representations made during the meetings of the Representative Assembly asking for the constitution of Village Courts for the settlement of petty civil and criminal cases. There is a general feeling at the present time that we should try and revive this ancient indigenous institution of the Village Panchayet. Whether the old communal spirit can at all be revived is a matter which it is impossible for any one to predict with certainty; but the experiment is certainly worth trying. The scheme proposed in the bill before us is a practical attempt in this direction, and I commend it to the sympathetic consideration and support of the members of this Council. Personally I have every hope that the scheme will be a success in its primary object of improving the condition of tanks and in its ulterior object of reviving the communal spirit. I look forward to a day when the raiyat will have so identified himself with his tank as to feel a proprietary interest in it and a pride in keeping it neat and trim without any prompting from the officials. When such a feeling has been engendered in the raiyats it is possible that they may employ a Nirganti to watch the tank and put earth on it to fill up the holes and gullies and pay him either from their tank fund or by voluntary contributions. They may revive the old system of keeping a buffalo for carrying earth to be put on the bund. The raiyats who personally work in the field may set apart a day in the week or month and turn out to do work on the bund, the non-labouring classes contributing in money or grain for their share of the work. A rivalry will arise between neighbouring villages and one will vie with the other as to whose shall be the best kept tank. And when once the communal spirit is infused into the minds of the people and the raiyats develop the faculty of wisely administering the details of tank management, there is no reason why we should not entrust them with even a larger share in administering their own affairs. The panchayet may in course of time be able to prevent the occurrence of abuses in the collection of revenue, and in the sale of lands for arrears or on darkhast, settle differences among the people, manage their communal concerns and generally act as a committee of vigilance on behalf of the village community. But these are distant visions, no doubt.

With these remarks, Sir, I move that the bill be read in Council.

Mr. K. S. Chandrasekhara Aiyar seconded the motion which was put to the Council and carried.

Mr. K. P. Puttanna Chetty then moved that the bill be referred to a Select Committee consisting of Messrs. Rajakaryapravina A. Rangaswami Iyengar, M. Kantharaj Urs, S. Narayana Rao, V. N. Narasimmiyengar and Nagappa and the mover.

Mr. Nagappa seconded the above motion.

Rajakaryapravina Mr. A. Rangaswami Iyengar proposed the addition of Rajamantrapravina Mr. C. Srinivasiengar to the Select Committee and this was seconded by Mr. M. Kantharaj Urs. Both motions were adopted and a period of three months was fixed for the report of the Select Committee.

Bill further to amend the Code of Civil Procedure.

Mr. S. Narayana Rao:—Sir, I beg to present the report of the Select Committee on the bill to further amend the Code of Civil Procedure and in doing so. I have to observe that the Committee have unanimously approved of the bill referred to them on the 24th February last.

I desire to call attention to the recommendation made by the majority of the Committee in their report, suggesting an improvement to an earlier part of the Section 310A than that covered by the bill.

This Section 310A was introduced into the Code by Regulation III of 1906, and was intended to afford relief to certain judgment-debtors and others

whose immoveable property was sold in execution of decrees by enabling them to get the sales cancelled on payment of a certain amount of compensation to the purchasers and of the amount due under the decree to the creditor. The section may, for our present purpose, be viewed as consisting of two parts. The first part deals with the persons who are entitled to apply for cancellation of sales, while the second part lays down the terms on which the sales may be cancelled.

The bill now before the Council deals with the second part only, remedying certain formal defects therein and providing for an appeal against an order passed under this section. The amendments proposed in these respects are admitted on all hands to be necessary and desirable and the Committee have unanimously approved of the same, as I already submitted.

The further recommendation made by the Committee in their report refers to the first part of the section. The Committee felt it was not open to them to deal with this part of the section as being beyond the scope of the bill referred to them.

As this part of the section now stands in the Regulation, it restricts the persons who can apply for cancellation of the sale to the judgment-debtors and to such others as have acquired their title to and interest in the property before the same was attached, and in cases of mortgaged property before the decree directing the sale thereof was passed.

In British India the scope of this part of the section was enlarged (*vide* Section 2 of Act V of 1894) by declaring it open to every person who acquired his title to or interest in the property at any time before the Court sale thereof, to come in under this section and apply for cancellation of the same. This provision is retained in the new Civil Procedure Code of 1908 also. There are strong reasons in favour of the recommendation made by the Committee and it does not militate against the general policy or principle involved in the section. However, if the amendment recommended by the Committee cannot be regarded as part of the bill, it may be left out, and we may proceed to deal with the present bill which is intended to remove certain hardships experienced in working the section as it stands

I now move, under clause 46 of the Rules for the Conduct of Business, that the bill and the report of the Select Committee be taken into consideration by the Council.

Mr. Chandrasekhara Aiyar, in seconding the motion, added that the question of introducing the Civil Procedure Code as recently revised in British India was likely to be taken up shortly, and that the further recommendation of the Select Committee might be dealt with then.

Mr. Nagappa proposed that the consideration of the Select Committee's report might be deferred to another meeting.

Rajamantrapravina Mr. C. Srinivasaiengar seconded this proposal, and after some discussion the Council resolved to take up the further consideration of the bill at a future meeting.

The Village Offices Bill.

Mr. T. Ananda Rao:—Sir, I beg to move that the following amendments to the Village Offices Bill be now considered:—

(*i*) *Clause 7, sub-clause (5)*.—The words "subject to any rules which may be made by Government in this behalf under Section 22" shall be substituted for the words "under rules made under Section 22" appearing in line 1 of this sub-clause and placed at the beginning thereof.

(*ii*) *Clause 8, sub-clause (2)*.—The word "personal" shall be inserted between the words "the" and "law" in the fifth line of this sub-clause, and the word "on" shall be inserted before the words "one of his heirs" in the eleventh line thereof.

(*iii*) *Clause 8, sub-clause (3)*.—In the proviso to this sub-clause, the words "or removed" shall be inserted between the words "dismissed" and "dies" appearing in line 1.

(*iv*) *Clause (9)*.—In para 2 of this clause, the words "within a given time" shall be substituted by the words "within such time as may be allowed by the Deputy Commissioner or Assistant Commissioner."

Of the amendments proposed, Nos. (*i*), (*ii*) and (*iv*) do not call for any remarks. The amendment in clause 8, sub-clause (2), by the insertion of the word "personal" between the words "the" and "law" would set at rest any doubt as regards the law applicable to succession to village offices in unalienated villages.

Mr. K. P. Puttanna Chetty seconded the motion, which was put to the Council and carried.

Mr. Ananda Rao then moved that the bill as amended be passed by the Council. In doing so, he said :—Sir, I beg to move that the Village Offices Bill as amended be now taken up and passed by this Council. The success of the Revenue Administration depends to a great extent upon the efficiency of the village service. A measure of this kind to regulate appointment to that service has been under consideration for a long time till it is now for this assembly to enact it into law.

Mr. K. P. Puttanna Chetty seconded the above motion.

Rajamantrapravina Mr. C. Srinivasiengar :—Sir, With your kind permission I beg to say a few words before I give my vote in favor of this bill. This is a measure of considerable importance that affects both the Government and the public in general and our village officers in particular. The law on the subject has till now been scattered over a large body of rules, standing orders, executive orders and decisions of Government, many of them not known or accessible to the public. The enactment which has now reached its final stage has for its object the removal of many anomalies and misconceptions which have hitherto existed on this important subject. There have been doubts, uncertainties, ignorance and differences of opinion with regard to several matters connected with village administration. In short, this legislation aims at evolving order out of chaos, and has in my opinion not been undertaken a moment too soon.

Sir, through your patience and forbearance we have had an exhaustive and interesting debate in the course of which all shades of opinion have been elicited and much useful information collected and the subject discussed threadbare from every stand-point. In the result, the measure is now emerging from the crucible in a form which I think ought to be acceptable to all concerned and upon which all of them are entitled to congratulate themselves. It is a pleasure to me when out of office to find myself associated in however insignificant a manner with the passing of a measure in the inception of which I had something to do while in office.

I do not propose to detain the Council by any detailed examination of the various provisions of this bill. Suffice it for me to say that, among other matters, ambiguous or obscure expressions have been clearly defined, suitable provision has been made for appointments and punishments, the principle of heredity has been scrupulously kept in view even to the extent of applying it to absentee heirs and heirs however remotely connected. Provision has been made for suits, applications and references ; in the matter of appeals, we have been extremely liberal in that we have allowed three appeals, a thing which does not to my knowledge obtain anywhere else ; unnecessary restrictions upon alienation have been abrogated ; in short, nothing has been omitted the inclusion of which is calculated to enhance the usefulness of this measure, which I may say has the further merit of being as concise as it is self-contained. If one body of persons more than another is likely to be benefited by this enactment, it is the holders of alienated villages in the State whose troubles are at present as great as their number is legion. Under the new law, they will,

in case they show themselves deserving of the confidence of Government, be given large powers, a judicious exercise of which will enable them to more effectually control their staff of village servants. Owing to the complex nature of the subject, this Council has been confronted at almost every step with difficulties of no ordinary magnitude which well nigh threatened to be insuperable; but thanks to the sympathetic Government willing and ready to make concession wherever this could be done without the sacrifice of principle or the impairment of efficiency, we have happily been enabled to surmount those difficulties in a manner eminently satisfactory. Some idea of the extent of time and attention and labour bestowed by us upon the bill may be formed from the fact that this short measure of not more than 22 sections occupied the Council no less than eight sittings of not less than several hours duration each. I have heard it said in some quarters that the bill is being rushed through with inordinate haste, and that due regard is not being paid to custom and vested interests. In my humble opinion, this is a baseless charge. As a matter of fact, all vested rights have been recognized; the position and prestige of our village offices have been strengthened and raised; and everything has been done to make the measure as popular and efficient as could be done under the circumstances. I am sure that when the provisions of the bill, as now revised and approved by Council, come to be generally understood, they will be better appreciated, and welcomed by the public with gratification and gratitude.

It only remains for me now, Sir, to thank you for allowing us free latitude and encouraging us to speak without reserve even at the risk of the discussion sometimes lapsing into desultoriness; and, I may assure you that this indulgence has not been thrown away; for, as the bill now issues from the legislative anvil, it is a document on which the Province may well be congratulated.

MR. B. NAGAPPA.—Sir, I fully concur in the sentiments so eloquently expressed by Mr. Srinivasiengar. As observed by him, the bill contains clear provisions of law on many important questions on which there were conflicting decisions. It embodies all the provisions of law on the subject which were hithereto found scattered in the rules, proceedings and standing orders of Government, which were not easily accessible to the legal practitioner and much less so to the public. It also contains some important changes in the existing law.

It was hitherto a difficult task for a legal practitioner to advise upon any question relating to the holders of village offices, owing partly to the unsatisfactory state of the law and partly for the want of a regulation containing the whole law on the subject. The absence of any settled principle to guide the Revenue Courts led to the unhappy increase of litigation.

Now that this bill which embodies a clear exposition of law is just about to be passed into law, we may expect with confidence that it will prove beneficial to the large section of the community to which it applies. Being fully convinced that this is a beneficent measure, I give my vote for the passing of this bill.

In conclusion, Sir, permit me to express my sincere thanks to you for the kind and sympathetic treatment accorded and the patient hearing given to the non-official members.

The motion was put to the Council and carried.

PRESIDENT:—Gentlemen, I need not say how equally gratifying it is to me to see the bill passed at this sitting; and it is a source of very great pleasure to me that such kind and appreciative remarks regarding my share in the passing of this bill have fallen from Mr. Srinivasiengar who was so honorably connected with the past administration and whose experience in so many different branches of the State service has been placed at the disposal of the Council to the great benefit of the discussions that have taken place here. An appreciation from him who has such intimate knowledge of the subject of this bill (we may now call it a Regulation) is most valuable and will go a great way to assure the public and the village community in particular that the Regulation in

which they are so interested is the outcome of long and full discussion of the subject from every point of view. They will all feel re-assured from the remarks of such an authority as Mr. Srinivasiengar that every interest has been considered and safeguarded. I may say the same as regards the remarks made by Mr. Nagappa who is another non-official member. Mr. Nagappa is in addition a representative of the agricultural community and his remarks are the more valuable on that account.

I cannot do better in connection with what has been said by the two members than read to you some appreciative remarks from His Highness who, as you know, has been watching the progress of the bill and has been taking a keen interest in our discussions. This is what His Highness has commanded me to communicate to you :—" I desire to congratulate the Legislative Council and its President on the satisfactory manner in which this important and contentious measure has been dealt with. The discussions were full and informing and show that the members, both official and non-official, fully appreciate their responsibility and are prepared to bestow ungrudgingly their time and thought on the measures submitted to them. I should be glad if the President would take the opportunity of the next meeting of the Council, after the bill becomes law, to express my appreciation of the services rendered by the non-official members in particular."

This must be very gratifying testimony to you all and sufficient reward for the services you have rendered in passing the bill through the Council.

The non-official members requested the Dewan to convey to His Highness the Maharaja their respectful acknowledgments for the gracious message which His Highness was pleased to communicate to them through the President and they further assured him (President) that they felt highly gratified and honored that their humble services in connection with the Village Office Bill should have attracted the kind notice of His Highness and elicited his warm approval and appreciation.

The meeting then adjourned.

V. P. MADHAVA RAO,
President.

Regulation IV of 1908 Corrected Copy

THE MYSORE VILLAGE OFFICES ~~BILL~~ Regulation.

XIX

CONTENTS.

PREAMBLE.

Sections.

1. Short title, extent and commencement.
2. Repeal of rules and orders; saving of rights already acquired.
3. Disposal of suits, etc., pending at commencement of Regulation.
4. Definitions—
   "Village."
   "Village Office."
   Provisos.
   "Village Officer."
   "Emoluments."
   "Deputy Commissioner."
   "Assistant Commissioner."
5. Emoluments of village offices inalienable, impartible and not liable to attachment.
   Proviso.
6. (1) Villages may be grouped, amalgamated or divided.
   (2) Selection of persons to fill new offices.
   (3) Reduction or increase of village offices or village officers.
7. Power to punish village officers; procedure to be followed; and mode of recovering fines imposed.
8. Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.
   (1) General qualifications requisite in all cases.
   (2) Succession in case of permanent vacancy.
   (3) Appointment in case of temporary vacancy.
   (4) Procedure to be adopted when successor is a minor.
9. Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.
10. Succession in the case of offices other than patel, shanbhog, etc.
11. (1) Suits for offices, for recovery of emoluments and for registry as successor. No suit for declaratory decree.
    (2) Rejection of plaint when claimant is ineligible for appointment or for registry.
12. Procedure in case of non-payment of *miras* to nirganti, toti or talari.
13. Power of Deputy Commissioner in regard to transfers of suits.
14. (1) Every enquiry to be deemed a judicial proceeding.
    (2) Procedure with regard to suits, etc.
15. ~~Decrees and orders may provide for~~ levying of costs and execution of decrees & orders ~~and shall be executed according to rules made by Government and the provisions of the Land Revenue~~ Code.
16. Jurisdiction of Civil Courts barred.
17. (1) Appeal against decree or order of Assistant Commissioner, holder of a commission exercising powers of Assistant Commissioner and Deputy Commissioner.
    Proviso: Second appeal in certain cases and appeal to Government.
    (2) Appeal against order of Amildar or Deputy Amildar or holder exercising the powers of Amildar or Deputy Amildar.
18. Disposal of appeal by officer who passed original order.
19. Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the Chief Court.
20. Dismissal of suits, etc., instituted, etc., after the period of limitation.
    Limitation in case of suits the cause of action for which accrued before the commencement of this Regulaion.
21. Application of Certain sections of the Limitation Act ~~apply.~~
22. (1) Government may make rules on certain subjects.
    (2) Until such rules are made, existing rules to be in force.

SCHEDULE A. Form of commission issued under section 7 (3).

SCHEDULE B. Period of Limitation for suits, etc.

(Received the assent of His Highness the Maharaja on the 16th October 1908).

THE VILLAGE OFFICES ~~BILL~~ Regulation.

A ~~bill~~ regulation to consolidate and amend the Law relating to Village Offices in Mysore.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Regulation may be called the Mysore Village Offices Regulation; 1908.

(2) It extends to the whole of Mysore, provided that Government may, by notification in the official Gazette, exclude any local area from its operation and may, in like manner, amend or cancel such notification.

(3) It shall come into force from such date as may be notified by Government in the official Gazette.

Repeal of rules and orders; saving of rights already acquired.

2. On and after that date, all existing rules and orders relating to village offices shall be repealed; provided that nothing herein contained shall be deemed to affect any right acquired, or to revive any right that has ceased to exist, or to affect any act done or liabilities incurred, under the said rules and orders.

Disposal of suits etc., pending at commencement of Regulation.

3. All suits, appeals and applications pending at the commencement of this Regulation shall be heard and disposed of as if they had been preferred under this Regulation.

Definitions.

4. In this Regulation, unless there is something repugnant in the subject or context,—

"Village."

"Village" means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office."

"Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order, or with the settlement of boundaries, or other matters of civil administration pertaining to a village, whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known:

Provisos.

Provided as follows:—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may, in like manner, amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer."

"Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village office.

"Emoluments."

"Emoluments" means and includes—

(i) lands;

(ii) assignments of revenue payable in respect of lands;

(iii) fees in money or agricultural produce;

(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any village office by the Government.

"Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district.

"Deputy Commissioner."

"Assistant Commissioner" means an Assistant Commissioner in charge of a division of a district and includes any other Assistant Commissioner to whom cases under this Regulation have been transferred for disposal, in so far as such cases are concerned.

"Assistant Commissioner."

5. The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, partitioned, or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Emoluments of village offices inalienable, impartible and not liable to attachment.

Provided that in the case of lands which are not assigned as emoluments to the holder of a village office under rules framed under section 22, nothing contained in this section shall be deemed to affect transfers, partitions or encumbrances, as between different members of a hakdar's family.

Proviso.

6. (1) The Government may, with reference to rules made in this behalf under section 22, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages; and may also direct that any village office in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist, and that new offices shall be created for the new village or villages.

Villages may be grouped, amalgamated or divided.

(2) In choosing persons to fill such new offices, the Deputy Commissioner or Assistant Commissioner shall, subject to such rules as Government may make in this behalf under section 22, select the persons whom he may consider the best qualified from among the last holders of the offices which have ceased to exist or the members of their families.

Selection of persons to fill new offices.

(3) The Government may also direct that the number of village offices attached to a village or the number of village officers shall be—

(*a*) reduced, and thereupon the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices;

Reduction or increase of village offices or village officers.

or (*b*) increased, in which case the Deputy Commissioner or Assistant Commissioner shall select the best qualified from among the members of the families of the existing officers.

7. (1) The Deputy Commissioner or Assistant Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or for incapacity or for non-residence in the village, except when such non-residence is permitted by the Deputy Commissioner, or for any other sufficient cause, provided that any order of dismissal or removal passed by an Assistant Commissioner shall be subject to the confirmation of the Deputy Commissioner.

Power to punish village officers; procedure to be followed, and mode of recovering fines imposed.

(2) The Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine, or subject to the confirmation of the Deputy Commissioner or Assistant Commissioner, suspend any holder of a village office whether in an unalienated or alienated village for misconduct or neglect of duty.

(3) The holder of an alienated village or where there are more such holders than one, any one of them, or the agent of such holder or holders may, when duly authorized in that behalf by a commission issued by the Government in the form of schedule A, exercise in the village aforesaid and in respect of all or any particular offices specified and without prejudice to the exercise by the Deputy Commissioner,

Assistant Commissioner, Amildar or Deputy Amildar of the powers respectively vested in them by sub-sections (1) and (2), all or any of such powers of an Assistant Commissioner, Amildar or Deputy Amildar under those sub-sections, as may be conferred upon him by the commission.

(4) The officer or person taking action against a village officer under any of the preceding sub-sections shall hold the enquiry himself, record his proceedings in writing and furnish a copy of his order to such village officer. When such order is passed by the holder of a commission under sub-section (3), the proceedings together with a copy of the order shall also be forthwith reported by him to the Deputy Commissioner or Assistant Commissioner through the Amildar or Deputy Amildar for information and record or for confirmation, as the case may be.

Subject to grounds which may be made by Government on this behalf under section 22,

(5) The Deputy Commissioner may declare, ~~under rules made under section 22,~~ that the dismissal or removal of any village officer, whether in an unalienated or alienated village and whether ordered by himself or confirmed by him, shall entail a forfeiture of the right of succession of all undivided members of the family of the officer so dismissed or removed.

(6) Fines and suspensions under sub-sections (1), (2) and (3) shall be subject to such limitations as may be laid down by Government by rules made under section 22.

(7) All fines imposed under this section shall be recoverable as arrears of land revenue, the recovery in the case of fines payable by village officers in alienated villages being made by the Amildar or Deputy Amildar and credited to the public treasury.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

8. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex;

(*b*) has not attained majority, that is, completed 18 years of age;

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section 22;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner or Assistant Commissioner, disqualifies him for holding the office;

(*f*) has been adjudged by the Deputy Commissioner or Assistant Commissioner after a summary enquiry held in accordance with the provisions relating to summary enquiries contained in the Mysore Land Revenue Code, IV of 1888, to be of general bad character.

Provided that, in the case of nirganti, toti and talari, the Deputy Commissioner or Assistant Commissioner may, for special reasons, make an exception in favor of females otherwise competent.

Succession in case of permanent vacancy.

(2) Subject to the provisions of sub-section (1) and save as hereinafter separately provided in the case of minors, and subject also to any declaration made by the Deputy Commissioner under section 7, the succession in the case of a permanent vacancy (*a*) shall be regulated by the ordinary provisions of the personal law applicable to the last holder, provided that it shall devolve on a single heir and that where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, preference shall be given to the eldest member of the eldest branch among those persons, and (*b*) failing these, shall devolve on one of the duly recognised hakdars in the order of their importance as determined under rules made by Government under section 22 or ~~one of his heirs~~ as/-

according to the order of precedence laid down above. In the absence of persons entitled as above under (*a*) and (*b*), the Deputy Commissioner or Assistant Commissioner may appoint any other person duly qualified under sub-section (1), subject to such appointment, unless sooner determined by a decree in a suit hereinafter provided for, being cancelled in favor of a person falling under (*a*) or (*b*), in the event of such person being forthcoming, at the end of three years from the date of the appointment.

Appointment in case of temporary vacancy

(3) Where an office has become vacant by the dismissal, removal or suspension of the last holder, the Deputy Commissioner or Assistant Commissioner may, if he thinks proper, direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of such holder; but in making the selection the directions contained in sub-section (2) shall as far as possible be conformed to.

Provided that, when the officer who has been dismissed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-section (2).

Procedure to be adopted when successor is a minor.

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner or Assistant Commissioner shall register the minor as the successor of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as successor, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as successor under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions contained in sub-section (2).

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

9. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an alienated village, the holder of such village shall fill up the vacancy in accordance with the principles contained in section 8, subject to the confirmation of the Deputy Commissioner or Assistant Commissioner.

If the appointment be not made by the holder of the village within a given time, it shall be competent to the Deputy Commissioner or Assistant Commissioner to make such appointment.

Succession in the case of offices other than patel, shanbhog, etc.

10. The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari shall devolve in accordance with the law or custom applicable thereto; and, in the absence of any such law or custom, in accordance with the provisions of sections 8 and 9, respectively.

Suits for offices, or recovery of emoluments and for registry as successor.

11. (1) Any person may sue before the Deputy Commissioner or Assistant Commissioner for any village office in an unalienated or alienated village or for recovery of the emoluments of any such office, on the ground that he is entitled under sections 8, 9 or 10 of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner or Assistant Commissioner to be registered as successor of the last holder of any such office.

No suit for declaratory decree.

Provided that no suit shall be entertained for a mere declaratory decree.

Rejection of plaint when claimant is ineligible for appointment or for registry

(2) If, at any time before the completion of the trial of a suit preferred under this section, it appears to the Deputy Commissioner or Assistant Commissioner that the claimant is not eligible for appointment on any of the grounds referred to in sub-section (1) of section 8, he shall pass an order rejecting the plaint.

Procedure in case of non-payment of *miras* to nirganti, toti or talari.

12. On a complaint being preferred by a nirganti, toti or talari of non-payment of the *miras* payable under rules framed under section 22 by any holder of land or other person from whom such contribution is due, the Amildar or the Deputy Amildar of the taluk or sub-taluk shall hold a summary enquiry in the manner laid down in the Land Revenue Code, IV of 1888, and pass a decision thereon; provided that the complaint is made in the year in which such *miras* is due or in the year immediately following it.

Power of Deputy Commissioner in regard to transfers of suits.

13. The Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner, or transfer any suit from his own file or that of an Assistant Commissioner to the file of another Assistant Commissioner, for disposal.

Every enquiry to be deemed a judicial proceeding.

14. (1) Every enquiry under this Regulation shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Procedure with regard to suits, etc.

(2) The procedure to be followed with regard to suits, appeals and applications under this Regulation shall be regulated by rules made by Government under section 22.

to 5 Taxation of costs and execution of decrees & orders.

Decrees and orders ~~may~~ provide for costs and ~~shall~~ be executed according to rules made by Government and the provisions of the Land Revenue Code.

15. Decrees and orders passed in suits and enquiries under this Regulation may provide for payment of costs according to such scale and subject to such rules as may be prescribed by Government under section 22, and shall be executed in accordance with rules to be made under the said section and the corresponding provisions of the Land Revenue Code.

Jurisdiction of Civil Courts barred.

16. No Civil Court shall exercise jurisdiction in respect of any claim to succeed to, or to the possession of, any village office, or the emoluments thereof, or any question as to the rate or amount of such emoluments; but, when the claim is as between different members of a hakdar's family of patel or shanbhog in respect of land entered in the Government records or otherwise shown as service inam land connected with the office of patel or shanbhog, such claim may be entertained and adjudicated upon by a Civil Court.

Appeal against decree or order of Assistant Commissioner, holder of a commission exercising powers of Assistant Commissioner, and Deputy Commissioner.

17. (1) From every decree or order passed under this Regulation by an Assistant Commissioner and from every order passed by the holder of a commission exercising any of the powers of an Assistant Commissioner under sub-section (3) of section 7, an appeal shall lie to the Deputy Commissioner; and from every decree or order passed by a Deputy Commissioner, an appeal shall lie to the Revenue Commissioner. The decision on appeal of the Deputy Commissioner or the Revenue Commissioner, as the case may be, shall be final.

Second appeal in certain cases and appeal to Government.

Provided that, in cases of dismissal or removal under section 7 and in suits under section 11, a second appeal from the decision on appeal of the Deputy Commissioner shall lie to the Revenue Commissioner whose decision on such appeal shall be final, and provided further that nothing contained in this Regulation shall affect the right of appeal to Government under section 210, sub-section (2), of the Mysore Land Revenue Code.

Appeal against order of Amildar or Deputy Amildar or holder exercising the powers of Amildar or Deputy Amildar.

(2) From every decision or order passed by an Amildar or Deputy Amildar under sub-section (2) of section 7 or section 12, and from every order passed by the holder of a commission exercising any of the powers of an Amildar or a Deputy Amildar under sub-section (3) of section 7, an appeal shall lie to the Deputy Commissioner or Assistant Commissioner, whose decision shall be final.

18. If the officer to whom an appeal is presented under this Regulation happens to be the officer who in another capacity passed the decision which is appealed against, he shall report the fact to the authority to whom an appeal from his decision would lie, and such authority shall dispose of the appeal in accordance with law.

Disposal of appeal by officer who passed original order.

19. The Government and any revenue officer not inferior in rank to an Assistant Commissioner may call for and examine the record of any enquiry or the proceedings of any revenue officer subordinate to it or him and may pass such order thereon as shall seem fit; and the Government may also refer questions for the decision of the Chief Court. The provisions of the Land Revenue Code, IV of 1888, as regards revision of proceedings and reference to the Chief Court shall apply to revision of proceedings and reference to the Chief Court under this section.

Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the Chief Court.

Explanation.—For purposes of revision of orders passed by the holder of a commission under sub-section (3) of section 7, such holder shall be deemed to be an Assistant Commissioner or an Amildar or a Deputy Amildar, according as he is invested with the powers of an Assistant Commissioner or an Amildar or a Deputy Amildar, respectively, under the above-mentioned sub-section.

20. Subject to the provisions contained in section 21, every suit instituted, appeal presented and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed although limitation has not been set up as a defence.

Dismissal of suits, etc., instituted, etc., after the period of limitation.

Provided that, in the case of a person who by reason of minority is disqualified from holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Notwithstanding anything herein contained, any suit the cause of action for which accrued prior to the commencement of this Regulation may be brought within three years next after the commencement of this Regulation, unless where the period prescribed for such suit by the law of limitation applicable to it hitherto shall have expired before the completion of the said three years.

Limitation in case of suits the cause of action for which accrued before the commencement of this Regultion.

21. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, so far as may be, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Regulation.

Application of Certain sections of the Limitation Act. ~~apply.~~

22. (1) The Government may, by notification in the official Gazette, make rules not inconsistent with this Regulation in regard to the following:—

Government may make rules on certain subjects.

(i) the division, grouping and amalgamation of villages and the selection of persons to fill the offices newly created under section 6;

(ii) the holding of enquiries and other matters coming under sections 6 and 7, and the hearing of appeals under section 17;

(iii) matters falling under sections 8 and 9;

(iv) the action to be taken in respect of any alienation of emoluments contrary to the provisions of section 5;

(v) the procedure to be followed in filing and in disposing of suits, appeals and applications and the registers to be maintained in connection therewith;

(vi) the execution of decrees and orders and the taxation of costs;

(vii) the emoluments to be assigned to the holders of village offices, and the method of assessment and payment thereof;

(viii) the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them;

(ix) the custody, production and transfer of the accounts and other records kept by holders of village offices;

(x) any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Regulation.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto at the time of the passing of this Regulation shall, so far as they are consistent with this Regulation, be deemed to have been made under the preceding sub-section.

Until such rules are made, existing rules to be in force.

SCHEDULE. A.

Form of commission to be issued to the holder of an alienated village or to one of several holders thereof or to an agent under section 7 (3).

SEAL.

The Government of Mysore is pleased to confer on you (holder, one of several holders, or agent, as the case may be) power to punish village officers in the village of.....to the extent described below :—

[Here enter description].

The within delegated power is vested in you during the pleasure of and subject to recall by the Government of Mysore.

Secretary.

SCHEDULE B.

Description.	Period of limitation.	Time from which period begins.
1. Suit for the recovery of a village office or of the emoluments of any such office.	Three years	When the plaintiff is entitled to the possession of the office or the recovery of the emoluments, or the date of the order which would become final, if no such suit be brought.
2. Appeal to the Deputy Commissioner or Assistant Commissioner.	Thirty days	The date of the decree or order appealed against.
3. Appeal to the Revenue Commissioner.	Ninety days....	Do do
4. Application for execution of decree or order.	One year	(1) The date of decree or order. (2) (Where there has been an appeal) the date of the final decree or order of the appellate court. (3) (Where there has been a review of judgment) the date of the decision passed on review. (4) (Where there has been a revision of the decree or order) the date of the decree or order passed on revision. (5) The date of the last application for execution made in accordance with this Regulation.
5. Application for review of decree or order.	Ninety days....	The date of the decree or order sought to be reviewed.
6. Applications not otherwise herein provided for.	Do	When the right to apply accrues.

Received the assent of His Highness the Maharaja on the 16th day of October 1908.

Madhavarao

Dewan.

SUPPLEMENT TO

The Mysore Gazette.

PUBLISHED BY AUTHORITY.

BANGALORE, THURSDAY, DECEMBER 17, 1908.

Abstract Proceedings of the Mysore Legislative Council.

The Council met in the Council Chamber in the Public Offices, Bangalore, on Wednesday the 16th December 1908, at 3 P.M.

PRESENT.

V. P. MADHAVA RAO, ESQ., C.I.E., Dewan (Presiding).

Ex-officio Members.

T. ANANDA RAO, ESQ., B.A., (First Councillor).

K. P. PUTTANNA CHETTY, ESQ., (Second Councillor).

Additional Members.

Official.

RAJAKARYAPRAVINA A. RANGASWAMI IYENGAR, ESQ., B.A., B.L.

RAO BAHADUR M. MUTHANNA, ESQ.

S. NARAYANA RAO, ESQ.

K. S. CHANDRASEKHARA AIYAR, ESQ., B.A., B.L.

Non-official.

RAJAMANTRAPRAVINA C. SRINIVASA IYENGAR, ESQ.

V. N. NARASIMMIYENGAR, ESQ.

M. C. RANGIENGAR, ESQ., B.A.

B. NAGAPPA, ESQ., Barrister-at-law.

SYED AMIR HASSAN, ESQ.

C. S. BALASUNDARAM IYER, ESQ., B.A., (Secretary).

BSENT.

Official.

H. J. BHABHA, ESQ., M.A.

M. KANTHARAJ URS, ESQ., B.A.

The Secretary reported to the Council that the Village Offices Bill had received the assent of His Highness the Maharaja on the 16th day of October 1908.

Bill to recognize the representative character of the Administrator General of Madras.

MR. K. S. CHANDRASEKHARA AIYAR moved for leave to introduce the above bill, and in doing so said:—

Sir, I beg with your permission to move for leave to introduce a Bill to provide for the better recognition of the representative character of the Administrator-General of Madras in respect of the assets of deceased British subjects in Mysore.

I may state at the outset that the subject is one that has been under discussion between the Government of Mysore and the British Government since the year 1902, and that the object of the present Bill is to give effect to the understanding that has been reached as the result of such discussion. The legislation proposed is therefore more or less of a formal character.

Next, as to the object of the Bill. The Administrator-General's Act, II of 1874, extends not only to the whole of British India, but also, as far as regards British Subjects of His Majesty the King Emperor, to the dominions of Princes and States in India in alliance with His Majesty. For purposes of administrative convenience, Mysore has been included in the definition of the "Presidency of Madras;" and Section 23 A of the Act declares that probates or letters of administration granted by the High Court at Madras to the Administrator-General of the Presidency of Madras shall have effect over all the assets of a deceased British Subject throughout such Presidency including, of course, the Mysore State.

Since, however, the Act in question was not included in the schedule to the Instrument of Transfer as one of the enactments in force here at the time of the Rendition, and has not since been extended to Mysore by His Highness the Maharaja, it is not part of the territorial law of the State, though of course it is binding as a personal law on British Subjects resident herein. As a consequence, unless the Courts of Mysore are empowered by means of local legislation to recognize the status of the Administrator-General, the provisions of Section 23 A, already quoted, cannot render an authorization by the Madras High Court sufficient in all cases.

The members of this Council may not be unaware that the Mysore Government have already to a limited extent recognized the legal status of the Administrator-General of Madras. For, in clause (ii) of Section 4 of the Succession Certificate Regulation, VII of 1901, it is provided that a Court in Mysore may accept, among other things, a certificate granted under Section 36 or 37 of the Administrator-General's Act, 1874, in proof of the representative title of any person applying for the passing of a decree or for the execution of a decree or order for payment, against the debtor of a deceased person.

What is now proposed is to go a little further and to recognize the representative title of the Administrator-General (under probates and letters of administration granted by the Madras High Court) against all debtors of, and all persons holding property belonging to, deceased British Subjects in the State. For this purpose, a general extension of the British Act is unnecessary, and it is found sufficient to enact a short Regulation on the lines of the Rules framed in this behalf for the Civil and Military Station of Bangalore in a notification of the Government of India of the 15th September 1905.

The Council may rest assured that no loss of stamp revenue will accrue to the State by the arrangement outlined above. It has been settled that the fees payable under Article 11 of Schedule I of the Court Fees Act, 1870, in respect of grants of probate or letters of administration to the Administrator-General, shall, in the case of property belonging to deceased British Subjects situated in the Mysore State, be made over to His Highness' Government by refund from the British Treasury. This, however, is a matter for executive action between the Governments concerned, and will not find a place in the Bill.

With these remarks, I beg to move that leave be granted to introduce the Bill in question into the Council.

RAJAMANTRAPRAVINA Mr. C. SRINIVASA IYENGAR, seconded the motion.

The motion was put to the Council and carried.

A Bill further to amend the City of Mysore Improvement Regulation, III of 1903.

Mr. T. ANANDA RAO moved that the bill be read in Council, and in doing so said :—

Sir,—At our last meeting the Council were good enough to accord to me leave to introduce a bill further to amend the City of Mysore Improvement Regulation, III of 1903.

The Bill has been printed and published under Notification No. 121, dated 31st October last, and I have already explained its main purpose and import. I now beg to move that it be introduced and read at the present meeting of the Legislative Council.

Owing to the non-contentious nature of the proposed enactment and the importance of giving effect to the provisions of the Bill at an early date, it seems to me that the Bill need not be referred to a Select Committee under Rule 45.

MR. K. S. CHANDRASEKHARA AIYAR seconded the motion.

The Bill was then read by the Secretary.

MR. M. C. RANGIENGAR supported the motion and said,

In this connection, I beg to submit, as a member of the Mysore City Improvement Trust Board, that it is more than three years since a recommendation was made by the Board to the Government that the Trust Regulation should be amended on the lines of this Bill. At that time it was thought that the Municipality had ample powers to get the necessary works executed, and it was not considered necessary to confer these powers on the Trust Board. On account of the want of these powers in the Board, however, a good deal of the work of improvement which could have been done during the past three years has been left undone. Under these circumstances, the present bill comes not a moment too soon. I have therefore much pleasure in supporting the motion.

The motion was thereupon put to the Council and carried.

MR. T. ANANDA RAO then proposed the suspension of the rules of business to permit of the bill being finally considered and passed at this meeting of the Council. This was seconded by MR. NAGAPPA and the motion was put to the Council and carried. The bill was then finally considered by the Council and passed.

A Bill to provide a law relating to Treasure Trove in Mysore.

RAJAKARYAPRAVINA MR. A. RANGASWAMI IYENGAR :—Sir, I beg to introduce the Bill to provide a law relating to Treasure Trove and to move that it be read in Council. Before proceeding to refer to the provisions contained in it, I propose to give a short account of the law on this subject at present in force in Mysore. It is contained in the Rules published under the late Chief Commissioner's Notification No. 6 of 1867, and had been adopted from the Madras Regulation XI of 1832. But, having been issued without the sanction of the Government of India, the Rules were not included in the schedule to the Instrument of Transfer and so early as in 1886 the questions as to their legal validity and the expediency of the introduction of a Treasure Trove Act were raised. A Draft Regulation was prepared on the basis of the Government of India Act, VI of 1878, and subjected to careful scrutiny and revision from time to time, and a final draft was prepared in 1894. But in connection with an appeal from an order of the Deputy Commissioner of Shimoga regarding some coins found in a temple under the Chief Commissioner's Rules, a proposal was made to retain the said rules with some minor alterations as regards wording and procedure. But no final action was taken even on this proposal and ultimately it was decided with a view to remove all doubts as to the validity of the existing Rules to introduce a Regulation based on the British Indian Act, VI of 1878.

The principles of jurisprudence applicable to the rights to Treasure Trove or property found hidden underground have differed at different times and in different countries with reference to the ideas prevailing therein as to the rights of property of Government and of individuals.

It is scarcely necessary to enter into any explanation of those principles. They have been referred to in detail in the speeches of the Hon'ble Member who piloted the Bill in the Legislative Council of the Government of India, and it is sufficient to remark that the Draft Bill does not contemplate any material changes in the fundamental principles underlying the provisions of the Chief Commissioner's Rules which have been in force in the State for so many years. Nor is any argument needed to recommend to your acceptance the enactment of a measure on the lines of the British Indian Act, VI of 1878, which has been passed in the legislature of the Government of India after mature deliberation and after careful consideration of the laws on the subject in force in almost all the civilised countries of the world. We are on safe ground in adopting the provisions of such a measure, the more especially as our aim has always been to bring our laws in line with those obtaining in British India. Though drafted on the model of the Indian Act, there are, however, a few material alterations which I shall presently refer to. The chief aim of this Regulation is to prevent the concealment of the discovery of any treasure and its appropriation by the finder to the detriment of the right of persons interested and, what is of greater importance, to enable Government to acquire such articles as may be of historic or artistic importance and worthy of preservation in the interests of the public.

The Bill accordingly requires that intimation shall be given by the finder of the discovery of any treasure and provides penalties for omission to give such intimation. It recognises the right of all persons who can prove an antecedent property in it. This antecedent right is however permitted to be asserted and proved only in cases where there is presumptive evidence that the treasure was hidden within the previous one hundred years. Provision is also made to determine the respective rights of the finder and the owner of the land where the treasure was found, when such right of property is not established. All claims to the treasure and disputes as to the ownership of the land are to be referred to Civil Courts for adjudication. The remaining clauses relate to the procedure to be followed in carrying out the above provisions.

The Bill differs from the British Indian Act, VI of 1878, in the following particulars:--

(*a*) The right of Government to the excess beyond one lakh when no person other than the finder has established his right to a share (clause 17). This is taken from the Chief Commissioner's Rules, though there is no similar provision in the Indian Act.

(*b*) As between the owner and the finder, the Indian Act allots three-fourths to the finder and one-fourth to the owner. An equal division between the two is considered more equitable and the Bill provides for this accordingly (clause 12).

(*c*) When the Deputy Commissioner proceeds to sell the treasure under clause 12, he is required to take the orders of Government as to the particulars of sale.

(*d*) Power is reserved to Government to make rules on matters incidental to treasure-trove not provided for in the Bill.

I need not discuss at present the reasons which led to the proposal of these alterations, as the provisions of the Bill may have to be considered by a Select Committee and brought up for discussion in this Council before it is passed. With these brief remarks, I beg to move that the Bill be read in Council.

MR. S. NARAYANA RAO seconded the above motion, which was put to the Council and carried.

RAJAKARYAPRAVINA MR. A. RANGASWAMI IYENGAR, then moved that the Bill be referred to a Select Committee composed of MR. ANANDA RAO, RAJAMANTRAPRAVINA MR. C. SRINIVASA IYENGAR, MR. NAGAPPA, MR. NARAYANA RAO and the mover.

The motion was put to the Council and carried.

Bill for the Regulation of the Possession and Sale of Poisons in Mysore.

MR. K. P. PUTTANNA CHETTY moved that the bill for the regulation of the possession and sale of poisons in Mysore be read in Council. This was seconded by MR. K. S. CHANDRASEKHARA AIYAR. The motion was put to the Council and carried.

The Bill was then referred to a select committee consisting of MR. K. P. PUTTANNA CHETTY, MR. RANGIENGAR and MR. S. NARAYAN RAO.

The Police Bill.

MR. K. P. PUTTANNA CHETTY moved that the following amendments to the Police Bill be considered :—

(1) The following shall be substituted for clause 26 (1) :—

"Clause 26 (1). Any officer authorized by Sub-Section (3) in that behalf may—

(*a*) suspend, reduce or dismiss any Police Officer below the grade of Assistant Superintendent, or

(*b*) impose on any such Police Officer who is guilty of any breach of discipline, misconduct or neglect of duty which does not necessitate his suspension, reduction or dismissal or who, by any act of his own, renders himself unfit for the discharge of his duty, any one or more of the following punishments, *viz.* :—

(1) fine not exceeding one month's pay ;
(2) deprivation of good service pay ;
(3) removal from any office of distinction or special emolument ;
(4) entry of a black mark against his name in the manner prescribed by rules made in this behalf ;
(5) forfeiture of leave ;
(6) punishment drill ;
(7) extra guard, fatigue or other duty.

Provided that the punishments mentioned in clauses (4), (6) and (7) shall not be imposed on any officer of or above the rank of jamedar."

MR. ANANDA RAO seconded the above motion.

The motion was put to the Council and carried.

(2) *Clause 46, sub-clause (1) (b).*—The words "or competent authority" shall be inserted between the words "Magistrate" and "under" in line 2 of the above sub-clause.

The motion was also seconded by MR. ANANDA RAO and was put to the Council and carried.

(3) *Clause 46, sub-clause (3).*—The word "under" shall be inserted between the words "issued" and "this" occurring in line 3 of this sub-clause.

The motion was duly seconded and was then put to the Council and carried.

The above amendments having been passed by the Council, MR. K. P. PUTTANNA CHETTY moved that the Bill as amended be passed by the Council.

MR. K. S. CHANDRASEKHARA AIYAR seconded the above motion.

MR. M. C. RANGIENGAR supported the same and said,

Mr. PRESIDENT,—This is a very important Bill on which I may be permitted to make a few observations before the motion is put to the Council.

The Secretary announced to the Council to-day the assent of His Highness the Maharaja to an important Bill, *viz.*, the Village Offices Bill. No scheme of Police Administration can be successful which ignores the importance of the village servants. Appropriately, therefore, the Police Bill comes close upon the heels of the Village Offices Bill. The Village Offices Bill having been passed recently the proper time has now arrived for passing the Police Bill.

One of the principal objects of this Bill is to bring the village servants into direct relation with the organized constabulary. In British India the same attempt has been

made and the experiment is being watched with interest. The last Administration Report shows that the authorities there could not pronounce the results of the experiment as altogether satisfactory. But they hope that the scheme will prove a success in course of time. But, in Mysore, the conditions are slightly different and the attempt to bring the village servants into direct relation with the regular Police force is, I submit, likely to be more successful for this reason, that in Mysore the village servants are not under a dual control as in British India. The village servants are under the control of the Amildar whose status and connection with the Police have been emphasised in the Bill. The Amildar is the head of the Police in the taluk and being also the head of the Revenue administration of his taluk, it seems to me that it will be practicable to co-ordinate the regular force with the village servants. For this reason, the experiment must necessarily prove more successful here in Mysore than outside it.

As regards the provisions of the Bill itself, I have very little to submit for the consideration of this Council, because the Bill, immediately before it was introduced into Council, had been considered by a very strong Departmental Committee consisting of the present Revenue Commissioner, the present Second Councillor and other distinguished officers of the State. They discussed the provisions so thoroughly and so well that, when the Bill emerged from the committee and came before this Council, even a reference to the Select Committee was scarcely necessary. The Select Committee which was later on appointed made very few alterations and, when these were placed before the Council, the Council considered it desirable to adopt the recommendations of the original Committee. A few important changes were, however, introduced which met with the approval of the Council.

One great object of the Bill is to make it possible for the executive to render the Police force as efficient as possible. It goes without saying that mere legislation will not make the Police force efficient. A great deal depends upon what rules the Government will make under the Police Regulation and the way in which the provisions of the Regulation and the Rules will be worked. It must be conceded that this Bill gives large and extensive powers to the Police force, powers which it is possible may be misused by unworthy officials. It is a matter for the anxious consideration of the Government to see that these extensive powers are not misused by the Police force. Men of character, intelligence and energy must be encouraged to join the force. But these are matters which the Government should consider in its administrative aspect and with which this Council has nothing to do. But, I make these humble suggestions with a view to impress upon the Government the necessity for improving the Police force. That there is ample scope for improving it cannot be denied and, I submit, that this Council has done its best to provide a very satisfactory piece of legislation towards attaining that object. I heartily support the motion that this Bill be passed into law.

The motion was put to the Council and carried.

The Council then adjourned.

V. P. MADHAVA RAO,
President.

XXI

(REGULATION No. IV OF 1908.)

THE MYSORE VILLAGE OFFICES REGULATION.

CONTENTS.

PREAMBLE.

Sections.

1. Short title, extent and commencement.
2. Repeal of rules and orders; saving of rights already acquired.
3. Disposal of suits, etc., pending at commencement of Regulation.
4. Definitions—

"Village."

"Village Office."

Provisos.

"Village Officer.

"Emoluments."

"Deputy Commissioner."

"Assistant Commissioner."

5. Emoluments of village offices inalienable, impartible and not liable to attachment. Proviso.
6. (1) Villages may be grouped, amalgamated or divided.

(2) Selection of persons to fill new offices.

(3) Reduction or increase of village offices or village officers.

7. Power to punish village officers; procedure to be followed; and mode of recovering fines imposed.
8. Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

(1) General qualifications requisite in all cases.

(2) Succession in case of permanent vacancy.

(3) Appointment in case of temporary vacancy.

(4) Procedure to be adopted when successor is a minor.

9. Rules to be observed in making appointments to the offices of patel, shanbhog, etc. in alienated villages.
10. Succession in the case of offices other than patel, shanbhog, etc.
11. (1) Suits for offices, for recovery of emoluments and for registry as successor. No suit for declaratory decree.

(2) Rejection of plaint when claimant is ineligible for appointment or for registry.

12. Procedure in case of non-payment of *miras* to nirganti, toti or talari.

13. Power of Deputy Commissioner in regard to transfers of suits.

14. (1) Every enquiry to be deemed a judicial proceeding.

(2) Procedure with regard to suits, etc.

15. Taxation of costs and execution of decrees and orders.

16. Jurisdiction of Civil Courts barred.

17. (1) Appeal against decree or order of Assistant Commissioner, holder of a commission exercising powers of Assistant Commissioner and Deputy Commissioner.
Proviso: Second appeal in certain cases and appeal to Government.

(2) Appeal against order of Amildar or Deputy Amildar or holder exercising the powers of Amildar or Deputy Amildar.

18. Disposal of appeal by officer who passed original order.

19. Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the Chief Court.

20. Dismissal of suits, etc., instituted, etc., after the period of limitation.
Limitation in case of suits the cause of action for which accrued before the commencement of this Regulation.

21. Application of certain sections of the Limitation Act.

22. (1) Government may make rules on certain subjects.

(2) Until such rules are made, existing rules to be in force.

SCHEDULE A. Form of Commission issued under section 7 (3).

SCHEDULE B. Period of Limitation for suits, etc.

(REGULATION No. IV OF 1908.)

THE VILLAGE OFFICES REGULATION.

RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 16TH OCTOBER 1908.

A Regulation to consolidate and amend the Law relating to Village Offices in Mysore.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to village offices in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Regulation may be called "The Mysore Village Offices Regulation, 1908."

(2) It extends to the whole of Mysore, provided that Government may, by notification in the official Gazette, exclude any local area from its operation and may, in like manner, amend or cancel such notification.

(3) It shall come into force from such date as may be notified by Government in the official Gazette.

Repeal of rules and orders; saving of rights already acquired.

2. On and after that date, all existing rules and orders relating to village offices shall be repealed; provided that nothing herein contained shall be deemed to affect any right acquired, or to revive any right that has ceased to exist, or to affect any act done or liabilities incurred, under the said rules and orders.

Disposal of suits, etc., pending at commencement of Regulation.

3. All suits, appeals and applications pending at the commencement of this Regulation shall be heard and disposed of as if they had been preferred under this Regulation.

Definitions.

4. In this Regulation, unless there is something repugnant in the subject or context,—

"Village."

"Village" means any local area now recognised as a village or hereafter declared by Government to be a village.

"Village Office."

"Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order, or with the settlement of boundaries, or other matters of civil administration pertaining to a village, whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known:

Provisos.

Provided as follows:—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Regulation, and may, in like manner, amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office.

"Village Officer."

"Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village office.

"Emoluments."

"Emoluments" means and includes—

(i) lands;

(ii) assignments of revenue payable in respect of lands;

(iii) fees in money or agricultural produce;

(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any village office by the Government.

"Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district.

"Deputy Commissioner."

"Assistant Commissioner" means an Assistant Commissioner in charge of a division of a district and includes any other Assistant Commissioner to whom cases under this Regulation have been transferred for disposal, in so far as such cases are concerned.

"Assistant Commissioner."

5. The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, partitioned, or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof.

Emoluments of village offices inalienable, impartible and not liable to attachment.

Provided that in the case of lands which are not assigned as emoluments to the holder of a village office under rules framed under section 22, nothing contained in this section shall be deemed to affect transfers, partitions or encumbrances, as between different members of a hakdar's family.

Proviso.

6. (1) The Government may, with reference to rules made in this behalf under section 22, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages; and may also direct that any village office in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist, and that new offices shall be created for the new village or villages.

Villages may be grouped, amalgamated or divided.

(2) In choosing persons to fill such new offices, the Deputy Commissioner or Assistant Commissioner shall, subject to such rules as Government may make in this behalf under section 22, select the persons whom he may consider the best qualified from among the last holders of the offices which have ceased to exist or the members of their families.

Selection of persons to fill new offices.

(3) The Government may also direct that the number of village offices attached to a village or the number of village officers shall be—

(*a*) reduced, and thereupon the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices;

Reduction or increase of village offices or village officers.

or (*b*) increased, in which case the Deputy Commissioner or Assistant Commissioner shall select the best qualified from among the members of the families of the existing officers.

7. (1) The Deputy Commissioner or Assistant Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office whether in an unalienated or alienated village, for misconduct or for neglect of duty or for incapacity or for non-residence in the village, except when such non-residence is permitted by the Deputy Commissioner, or for any other sufficient cause, provided that any order of dismissal or removal passed by an Assistant Commissioner shall be subject to the confirmation of the Deputy Commissioner.

Power to punish village officers; procedure to be followed and mode of recovering fines imposed.

(2) The Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine, or subject to the confirmation of the Deputy Commissioner or Assistant Commissioner, suspend any holder of a village office whether in an unalienated or alienated village for misconduct or neglect of duty.

(3) The holder of an alienated village or where there are more such holders than one, any one of them, or the agent of such holder or holders may, when duly authorized in that behalf by a commission issued by the Government in the form of schedule A, exercise in the village aforesaid and in respect of all or any particular offices specified and without prejudice to the exercise by the Deputy Commissioner,

Assistant Commissioner, Amildar or Deputy Amildar of the powers respectively vested in them by sub-sections (1) and (2), all or any of such powers of an Assistant Commissioner, Amildar or Deputy Amildar under those sub-sections, as may be conferred upon him by the commission.

(4) The officer or person taking action against a village officer under any of the preceding sub-sections shall hold the enquiry himself, record his proceedings in writing and furnish a copy of his order to such village officer. When such order is passed by the holder of a commission under sub-section (3), the proceedings together with a copy of the order shall also be forthwith reported by him to the Deputy Commissioner or Assistant Commissioner through the Amildar or Deputy Amildar for information and record or for confirmation, as the case may be.

(5) Subject to any rules which may be made by Government on this behalf under section 22, the Deputy Commissioner may declare, that the dismissal or removal of any village officer, whether in an unalienated or alienated village and whether ordered by himself or confirmed by him, shall entail a forfeiture of the right of succession of all undivided members of the family of the officer so dismissed or removed.

(6) Fines and suspensions under sub-sections (1), (2) and (3) shall be subject to such limitations as may be laid down by Government by rules made under section 22.

(7) All fines imposed under this section shall be recoverable as arrears of land revenue, the recovery in the case of fines payable by village officers in alienated villages being made by the Amildar or Deputy Amildar and credited to the public treasury.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

8. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an unalienated village, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions of the following sub-sections:—

(1) No person shall be eligible for appointment who—

General qualifications requisite in all cases.

(*a*) is not of the male sex;

(*b*) has not attained majority, that is, completed 18 years of age;

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section 22;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Deputy Commissioner or Assistant Commissioner, disqualifies him for holding the office;

(*f*) has been adjudged by the Deputy Commissioner or Assistant Commissioner after a summary enquiry held in accordance with the provisions relating to summary enquiries contained in the Mysore Land Revenue Code, IV of 1888, to be of general bad character.

Provided that, in the case of nirganti, toti and talari, the Deputy Commissioner or Assistant Commissioner may, for special reasons, make an exception in favor of females otherwise competent.

Succession in case of permanent vacancy.

(2) Subject to the provisions of sub-section (1) and save as hereinafter separately provided in the case of minors, and subject also to any declaration made by the Deputy Commissioner under section 7, the succession in the case of a permanent vacancy (*a*) shall be regulated by the ordinary provisions of the personal law applicable to the last holder, provided that it shall devolve on a single heir and that where there are more persons than one who would, under the ordinary provisions of the said law, be entitled to succeed to the last holder of the office, preference shall be given to the eldest member of the eldest branch among those persons, and (*b*) failing these, shall devolve on one of the duly recognised hakdars in the order of their importance as determined under rules made by Government under section 22 or on one of his heirs

according to the order of precedence laid down above. In the absence of persons entitled as above under (*a*) and (*b*), the Deputy Commissioner or Assistant Commissioner may appoint any other person duly qualified under sub-section (1), subject to such appointment, unless sooner determined by a decree in a suit hereinafter provided for, being cancelled in favor of a person falling under (*a*) or (*b*), in the event of such person being forthcoming, at the end of three years from the date of the appointment.

Appointment in case of temporary vacancy

(3) Where an office has become vacant by the dismissal, removal or suspension of the last holder, the Deputy Commissioner or Assistant Commissioner may, if he thinks proper, direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of such holder; but in making the selection the directions contained in sub-section (2) shall as far as possible be conformed to.

Provided that, when the officer who has been dismissed or removed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-section (2).

Procedure to be adopted when successor is a minor

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner or Assistant Commissioner shall register the minor as the successor of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as successor, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as successor under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions contained in sub-section (2).

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

9. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an alienated village, the holder of such village shall fill up the vacancy in accordance with the principles contained in section 8, subject to the confirmation of the Deputy Commissioner or Assistant Commissioner.

If the appointment be not made by the holder of the village within such time as may be allowed by the Deputy Commissioner or Assistant Commissioner, it shall be competent to the Deputy Commissioner or Assistant Commissioner to make such appointment.

Succession in the case of offices other than patel, shanbhog, etc.

10. The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari shall devolve in accordance with the law or custom applicable thereto; and, in the absence of any such law or custom, in accordance with the provisions of sections 8 and 9, respectively.

Suits for offices, for recovery of emoluments and for registry as successor.

11. (1) Any person may sue before the Deputy Commissioner or Assistant Commissioner for any village office in an unalienated or alienated village or for recovery of the emoluments of any such office, on the ground that he is entitled under sections 8, 9 or 10 of this Regulation, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner or Assistant Commissioner to be registered as successor of the last holder of any such office.

No suit for declaratory decree

Provided that no suit shall be entertained for a mere declaratory decree.

Rejection of plaint when claimant is ineligible for appointment or for registry.

(2) If, at any time before the completion of the trial of a suit preferred under this section, it appears to the Deputy Commissioner or Assistant Commissioner that the claimant is not eligible for appointment on any of the grounds referred to in sub-section (1) of section 8, he shall pass an order rejecting the plaint.

12. On a complaint being preferred by a nirganti, toti or talari of non-payment of the *miras* payable under rules framed under section 22 by any holder of land or other person from whom such contribution is due, the Amildar or the Deputy Amildar of the taluk or sub-taluk shall hold a summary enquiry in the manner laid down in the Land Revenue Code, IV of 1888, and pass a decision thereon; provided that the complaint is made in the year in which such *miras* is due or in the year immediately following it.

Procedure in case of non-payment of *miras* to nirganti, toti or talari.

13. The Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner, or transfer any suit from his own file or that of an Assistant Commissioner to the file of another Assistant Commissioner, for disposal.

Power of Deputy Commissioner in regard to transfers of suits.

14. (1) Every enquiry under this Regulation shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Every enquiry to be deemed a judicial proceeding.

(2) The procedure to be followed with regard to suits, appeals and applications under this Regulation shall be regulated by rules made by Government under section 22.

Procedure with regard to suits, etc.

15. Decrees and orders passed in suits and enquiries under this Regulation may provide for payment of costs according to such scale and subject to such rules as may be prescribed by Government under section 22, and shall be executed in accordance with rules to be made under the said section and the corresponding provisions of the Land Revenue Code.

Taxation of costs and execution of decrees and orders.

16. No Civil Court shall exercise jurisdiction in respect of any claim to succeed to, or to the possession of, any village office, or the emoluments thereof, or any question as to the rate or amount of such emoluments; but, when the claim is as between different members of a hakdar's family of patel or shanbhog in respect of land entered in the Government records or otherwise shown as service inam land connected with the office of patel or shanbhog, such claim may be entertained and adjudicated upon by a Civil Court.

Jurisdiction of Civil Courts barred.

17. (1) From every decree or order passed under this Regulation by an Assistant Commissioner and from every order passed by the holder of a commission exercising any of the powers of an Assistant Commissioner under sub-section (3) of section 7, an appeal shall lie to the Deputy Commissioner; and from every decree or order passed by a Deputy Commissioner, an appeal shall lie to the Revenue Commissioner. The decision on appeal of the Deputy Commissioner or the Revenue Commissioner, as the case may be, shall be final.

Appeal against decree or order of Assistant Commissioner, holder of a commission exercising powers of Assistant Commissioner, and Deputy Commissioner.

Provided that, in cases of dismissal or removal under section 7 and in suits under section 11, a second appeal from the decision on appeal of the Deputy Commissioner shall lie to the Revenue Commissioner whose decision on such appeal shall be final, and provided further that nothing contained in this Regulation shall affect the right of appeal to Government under section 210, sub-section (2), of the Mysore Land Revenue Code.

Second appeal in certain cases and appeal to Government.

(2) From every decision or order passed by an Amildar or Deputy Amildar under sub-section (2) of section 7 or section 12, and from every order passed by the holder of a commission exercising any of the powers of an Amildar or a Deputy Amildar under sub-section (3) of section 7, an appeal shall lie to the Deputy Commissioner or Assistant Commissioner, whose decision shall be final.

Appeal against order of Amildar or Deputy Amildar or holder exercising the powers of Amildar or Deputy Amildar.

18. If the officer to whom an appeal is presented under this Regulation happens to be the officer who in another capacity passed the decision which is appealed against, he shall report the fact to the authority to whom an appeal from his decision would lie, and such authority shall dispose of the appeal in accordance with law.

Disposal of appeal by officer who passed original order.

19. The Government and any revenue officer not inferior in rank to an Assistant Commissioner may call for and examine the record of any enquiry or the proceedings of any revenue officer subordinate to it or him and may pass such order thereon as shall seem fit; and the Government may also refer questions for the decision of the Chief Court. The provisions of the Land Revenue Code, IV of 1888, as regards revision of proceedings and reference to the Chief Court shall apply to revision of proceedings and reference to the Chief Court under this section.

Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the Chief Court.

Explanation. For purposes of revision of orders passed by the holder of a commission under sub-section (3) of section 7, such holder shall be deemed to be an Assistant Commissioner or an Amildar or a Deputy Amildar, according as he is invested with the powers of an Assistant Commissioner or an Amildar or a Deputy Amildar, respectively, under the abovementioned sub-section.

20. Subject to the provisions contained in section 21, every suit instituted, appeal presented and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed although limitation has not been set up as a defence.

Dismissal of suits, etc., instituted, etc., after the period of limitation.

Provided that, in the case of a person who by reason of minority is disqualified from holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Notwithstanding anything herein contained, any suit the cause of action for which accrued prior to the commencement of this Regulation may be brought within three years next after the commencement of this Regulation, unless where the period prescribed for such suit by the law of limitation applicable to it hitherto shall have expired before the completion of the said three years.

Limitation in case of suits the cause of action for which accrued before the commencement of this Regulation.

21. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, so far as may be, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Regulation.

Application of certain sections of the Limitation Act.

22. (1) The Government may, by notification in the official Gazette, make rules not inconsistent with this Regulation in regard to the following: -

Government may make rules on certain subjects.

(i) the division, grouping and amalgamation of villages and the selection of persons to fill the offices newly created under section 6;

(ii) the holding of enquiries and other matters coming under sections 6 and 7, and the hearing of appeals under section 17;

(iii) matters falling under sections 8 and 9;

(iv) the action to be taken in respect of any alienation of emoluments contrary to the provisions of section 5;

(v) the procedure to be followed in filing and in disposing of suits, appeals and applications and the registers to be maintained in connection therewith;

(vi) the execution of decrees and orders and the taxation of costs;

(vii) the emoluments to be assigned to the holders of village offices, and the method of assessment and payment thereof;

(viii) the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them;

(ix) the custody, production and transfer of the accounts and other record kept by holders of village offices;

(x) any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Regulation.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto at the time of the passing of this Regulation shall, so far as they are consistent with this Regulation, be deemed to have been made under the preceding sub-section.

Until such rules are made, existing rules to be in force.

SCHEDULE A.

Form of commission to be issued to the holder of an alienated village or to one of several holders thereof or to an agent under section 7 (3).

SEAL.

The Government of Mysore is pleased to confer on you (holder, one of several holders, or agent, as the case may be) power to punish village officers in the village of.....to the extent described below :—

[Here enter description.]

The within delegated power is vested in you during the pleasure of and subject to recall by the Government of Mysore.

Secretary.

SCHEDULE B.

Description.	Period of limitation.	Time from which period begins.
1. Suit for the recovery of a village office or of the emoluments of any such office.	Three years	When the plaintiff is entitled to the possession of the office or the recovery of the emoluments, or the date of the order which would become final, if no such suit be brought.
2. Appeal to the Deputy Commissioner or Assistant Commissioner.	Thirty days	The date of the decree or order appealed against.
3. Appeal to the Revenue Commissioner.	Ninety days....	Do do
4. Application for execution of decree or order.	One year	(1) The date of decree or order. (2) (Where there has been an appeal) the date of the final decree or order of the appellate court. (3) (Where there has been a review of judgment) the date of the decision passed on review. (4) (Where there has been a revision of the decree or order) the date of the decree or order passed on revision. (5) The date of the last application for execution made in accordance with this Regulation.
5. Application for review of decree or order.	Ninety days....	The date of the decree or order sought to be reviewed.
6. Applications not otherwise herein provided for.	Do	When the right to apply accrues.

V. P. MADHAVA RAO,
Dewan of Mysore.

L.C. File 7 of 07

THE MYSORE LEGISLATIVE COUNCIL
No.
3 - AUG 1907

Subject. Village offices Bill.

TABLE OF CONTENTS.

Serial No.	Communication No.	Date.	From or to whom.	Subject in abstract.
1	Request to the Dewan	13.7.07	Fr. Mr. T. Anandarao (1st Cont)	Requests sanction in writing for introducing a Bill at the L.C. meeting on 26.7.07
2	29/LC	26.7.07	To. Compiler, Mysore Gazette	Notifies the 3 Bills viz Police Bill; Village Offices Bill Court fees Regn Amendt Bill
3	43-52/LC	31.7.07	To. All members of L.C.	Forwards copies of Village offices Bill and connected papers therewith.
4.	7/11/LC(7-07)	17.8.07	T. Anandarao.	Informs that the Village Offices Bill and the Court fees Regn Amendt Bill will be read in the L.C. meeting on 28.8.07.